

aclu NEWS

Volume LXVI

Summer 2002

No. 4

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Six issues a year: January-February, March-April, May-June, July-August, September-October and November-December.

Published by the American Civil Liberties Union of Northern California

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Membership \$20 and up, of which 50 cents is for a subscription to the *aclu news*.

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ACLU Sues Airlines Over Discrimination

by Angilee Shah, ACLU Intern.

In five sweeping lawsuits filed across the country on June 4, the ACLU is charging four major airlines with discriminating against passengers who were ejected from flights for reasons wholly unrelated to security.

“I’m sorry, this won’t make sense, but you can’t fly with us.”

The ACLU of Northern California (ACLU-NC) and Relman & Associates, a Washington, DC-based civil rights law firm, filed suit in federal court in San Francisco on behalf of Arshad Chowdhury, a 26-year-old MBA student who was barred from boarding a Northwest Airlines flight from San Francisco to Pittsburgh last October after he had cleared security. The airline’s refusal to allow Chowdhury to fly had nothing to do with safety, the ACLU-NC contends, but everything to do with something far more basic: his race and ethnicity.

The suit was filed in federal court in San Francisco on the same day as the national ACLU and three other affiliates filed lawsuits across the nation accusing three more airlines of discriminating against men who were ejected from flights after September 11th.

“In ejecting our clients from their flights or not permitting them to board, the airlines were engaging in illegal discrimination, not enforcing security,” said Kelli Evans of Relman & Associates “ We are filing this suit to ensure that our clients will in the future be able to fly with the knowledge that flight crews are guided by proper security considerations, not bias.”

All five plaintiffs had passed rigorous security checks, but were blocked when other passengers or airline employees said they did not want them on board. Four of the passengers are United States citizens and the fifth is a permanent legal resident; two of the five are of Arab descent. All are of Asian or Middle Eastern appearance. In addition to Chowdhury’s suit, which was filed in San Francisco, the suits were filed in Maryland, Los Angeles and New Jersey against American, United and Continental Airlines. The suits ask four federal courts to declare that the airlines’ actions violate the plaintiffs’ civil rights and ask the court to order that the airlines implement measures to prevent future discrimination.

“We cannot allow the race-based fears of passengers and flight crews to trump the determinations of trained law enforcement professionals,” said Jayashri Srikantiah of the ACLU-NC. “In the future, these decisions must be about security, not discrimination.”

Chowdhury, an MBA student who formerly worked for an investment bank in and across the street from the World Trade Center, was barred from boarding a Northwest Airlines flight returning home to Pittsburgh after a weekend in San Francisco on October 23, 2001. His battle began when he heard his name announced over the intercom at San Francisco Airport. After identifying himself to a gate agent and a Northwest supervisor, Chowdhury learned that the pilot found a “phonetic similarity” between his name and someone on their watch list. He complied with all security checks, including being held for 40 minutes by four police officers, two FBI agents, and two Northwest agents in front of 200 other passengers at the gate.

But security clearance from local and federal professionals was not enough for Northwest. “I’m sorry, this won’t make sense, but you can’t fly with us,” an employee told him. The airline placed his name

into a database that allegedly includes the names of known terrorists and did not remove it despite his security clearance. Chowdhury was permitted to fly on a US Air flight later the same day.

"I love America intensely and was deeply affected by the events of September 11," said Mr. Chowdhury. "But the result of this system is that my parents and my friends in the Bangladeshi community are too scared to fly."

One month later, while trying to board a US Air flight, Chowdhury discovered that Northwest still had a security block on his name. US Air removed the block.

The Plaintiffs

Assem Bayaa, 40, a U.S. citizen from Long Beach, CA, ejected from United Airlines Flight 10 (Los Angeles to New York) on December 23, 2001. *"I am here to help ensure that what happened to me does not happen to my children, to my brothers and sisters and nephews and nieces, or to anyone else who happens to have a different skin color or speaks with an accent."*

Edgardo Cureg, 34, a permanent legal resident from the Philippines and a Ph.D candidate at the University of South Florida (USF) was ejected from Continental Flight 1218 (New Jersey to Tampa) on December 31, 2001 along with Michael Dasrath, whom he did not know. *"I will never again feel free to travel in the future, because my basic right to travel free from discrimination has been grossly violated."*

Michael Dasrath, 32, a U.S. citizen from Brooklyn, NY, ejected from Continental Flight 1218 (New Jersey to Tampa) on December 31, 2001. Seated behind Cureg on Flight 1218, Dasrath heard a woman complain: "Those brown-skinned men are behaving suspiciously." Dasrath says: *"I was working in Manhattan on September 11 and I will never forget the horror of that day. But ejecting me from a flight to make a passenger feel better isn't going to make anyone any safer."*

Hassan Sader, 36, a U.S. citizen from Virginia, ejected from American Airlines Flight 1531 (Baltimore to Seattle) on October 31, 2001. *"I want to restore my confidence and faith in this country because this is where I want to be."*

**We cannot allow the race-based fears of passengers
and flight crews to trump the determinations of trained law
enforcement professionals" – Jayashri Srikantiah**

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ACLU to Lockyer: Protect our Privacy!

By Stella Richardson

Weeks after U.S. Attorney General John Ashcroft unilaterally loosened decades-old intelligence-gathering guidelines that were designed to protect America's people from government overreach, the three ACLU affiliates of California are calling on state Attorney General Bill Lockyer to protect Californians' constitutional privacy rights.

In an open letter dated July 2, 2002, the ACLU urges Lockyer to "take immediate steps to ensure that intelligence-gathering practices carried out in this state – whether by state, local or federal law enforcement officers – fully respect Californians' state constitutional right to privacy." Some of the practices permitted under the new guidelines violate the right to privacy clause inserted by voters into the state constitution in 1972.

"In short, California has drawn a line with respect to privacy, political and associational rights that government must not cross even with the best of intentions," the letter says. "Yet, some of the intelligence practices now openly encouraged by the new federal guidelines cross that long-standing state line."

The federal government's greatly expanded intelligence operations include Joint Terrorism Task Forces throughout California that include state and local officers working closely with the FBI. The letter explains that officers working with the FBI on these joint operations "deserve immediate warning that state law – not Attorney General Ashcroft – defines what conduct is permissible within California."

"As we celebrate the 30th anniversary of the state constitutional right to privacy, it is imperative that we remember why it was created," said Mark Schlosberg, police practices policy director for the ACLU-NC. "It was created to protect Californians from the kinds of law enforcement abuses that occurred in the 1960s. That is why we urge Attorney General Lockyer to uphold Californians' right to privacy as federal and state law enforcement agencies launch their anti-terrorism investigations."

The letter was signed by the executive directors of the ACLU of Northern California, the ACLU of Southern California and the ACLU of San Diego & Imperial Counties. Together, the three affiliates represent over 50,000 members. The ACLU-NC is continuing its campaign to preserve privacy by writing to police departments that are participating in the Joint Terrorism Task Forces, urging them not to violate Californians' rights.

You Can Help!

Join us in writing the Attorney General and asking him to protect your constitutional right to privacy. Address your letter to: Attorney General Bill Lockyer, 1300 I Street #1730, Sacramento, 94244 or fax it to 916-323-2137. For a sample letter, visit www.aclunc.org/takeaction.html

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Driving While Black or Brown: The ACLU-NC Reports

Nick Oakley, ACLU Intern

The ACLU may have a new bestseller. Hot off the press comes a new report that makes the case against racial profiling and provides a roadmap for change. *Driving While Black or Brown— A Report from the Highways, Trenches, and Halls of Power in California* tells the stories of Californians who have been stopped by the police because of the color of their skin. It charts the progress of the ACLU-NC and our allies in working to establish voluntary programs for data collection on race-based traffic stops. It exposes Governor Davis' continued efforts to thwart reform. And it outlines the way forward on this crucial issue.

"...I can't change the color of my skin. He used his badge to insult me. It takes something from you." -Jose Lopez, Fremont, CA

Visit www.aclunc.org/publications.html to download this report in pdf form or purchase at-cost copies from the ACLU by calling Gigi Pandian, 415-621-2493x358.

"When you talk to your white friends about this driving problem, they look at you funny because their experience with the cops is just so different, they don't know what you're talking about."

-Jason Marr, Vallejo, CA

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ACLU-NC'S Alexander To Head Stanford Law Clinic

After four years with the ACLU-NC, associate director Michelle Alexander has been tapped to found a prestigious new civil rights law clinic at her *alma mater*, Stanford Law School. "It was an offer I couldn't refuse," Alexander explains.

Alexander joined the ACLU-NC in 1998 as director of the newly created Racial Justice Project (RJP) and immediately set to work carving out a long-term strategy to pursue a proactive agenda on racial justice issues. Alexander embraced a multi-disciplinary approach in the work of RJP, melding litigation, legislative advocacy, public education and grassroots organization to accomplish change. She spearheaded the highly successful Driving While Black or Brown campaign, which put the issue of racial profiling on the political map, and was instrumental in developing the statewide campaign for educational equity that launched in Sacramento this June (see page 5). Alexander also masterminded and oversaw much of the affiliate's landmark litigation on racial justice issues. Since its inception, RJP has grown to accommodate four full-time staff, and has become a core focus of the affiliate's work. In 2001, Alexander was appointed associate director of the affiliate. "It is rare to find a leader and colleague who is as genuinely brilliant, inspiring and committed as Michelle," says Dorothy Ehrlich, executive director of ACLU-NC. "We wish her the best of luck at Stanford, and we look forward to expanding upon her work and her vision for the Racial Justice Project."

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ACLU Volunteer Profile: Jessica Justice@

by Gigi Pandian

At first we thought it was too good to be true – a resume appearing in the mail from a person with the liberty-themed name Jessica Justice, offering her time as a volunteer. But Justice was not too good to be true. Since April, she has been taking out a half day a week from her full-time job to serve as our new volunteer coordinator.

Justice's commitment to civil liberties and volunteerism started while growing up on a farm in West Virginia, the child of socially active parents. It blossomed at Guilford College, North Carolina, where she worked to pair students with organizations that needed volunteers and interns.

After graduating from college, Justice moved to the Bay Area, where she began working at a small, family-owned business. But she still felt herself pulled towards the non-profit world and volunteer work. Why the ACLU? "I appreciate the proactive nature of the ACLU," says Justice. "I like the feeling here that real social change is possible."

Now, Justice is putting her skills to good use, matching volunteers and interns with the departments that need their help, and reaching out into a wide range of communities to help recruit the best volunteers.

If you are interested in volunteering with the ACLU, please contact Jessica Justice at 415-621-2493 x383. To find out about staff positions and internships in our San Francisco office, visit www.aclunc.org/about.html

Volunteer Counselors Needed!

If you care about civil liberties, have counseling experience and enjoy talking on the phone, a challenging volunteer position awaits you!

ACLU-NC intake/complaint counselors staff the ALCU-NC complaint lines (open from 10am-3pm, Monday-Friday, screening calls and providing information and referrals to callers.

Due to the training required, the position requires at least a six-month commitment to work one day a week.

For more information, contact Angela Wartes at 415-621-2493.

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Honors for ACLU-NC Staff

Unsung hero **Robert Nakatani**, who directs the ACLU-NC's Endowment Campaign and also serves as development director for the national Lesbian & Gay Rights Project is receiving the recognition he so richly deserves. Nakatani is being honored this summer as one of public television station KQED's six "outstanding local heroes" for his work fighting for gay, lesbian, bisexual and transsexual rights.

Chinese for Affirmative Action (CAA) also honored three of the ACLU's own this summer: **Lucas Guttentag** of the Immigrants' Rights Project and @Francisco Lobaco@ and **Valerie Small Navarro** of the ACLU's Sacramento legislative office were presented with CAA's Civil Rights Award on June 20, 2002.

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Cyber liberties in the Spotlight

by Nick Soodik, ACLU Intern

A virtual world without borders means a world of new challenges for the ACLU. This spring, the burgeoning field of cyber liberties provided ample fodder for the courts, with the ACLU involved in several landmark cases. Two major rulings chalked up significant victories for First Amendment advocates, while a third constituted a temporary setback.

“Internet access in libraries provides a window to the world for many people who would not otherwise be able to take advantage of this extraordinary resource”

Free Expression of Ideas

In *Ashcroft v. Free Speech Coalition*, a case brought by the adult entertainment industry trade association, the U.S. Supreme Court invalidated the Child Pornography Prevention Act of 1996 – a law that expanded the definition of child pornography to include any depiction that “appears to be” of a minor engaging in sexual conduct, including images produced by a computer. The Court found that the law impermissibly banned the *idea* of teenagers engaging in sexual activity – an idea that “is a fact of modern society and has been a theme in art and literature throughout the ages.” The case, in which the ACLU and ACLU-NC served as friends of the court, was argued by H. Louis Sirkin.

Web Filters in Public Libraries

In a second reaffirmation of First Amendment liberties, the ACLU and the American Library Association mounted a successful challenge in federal district court in Pennsylvania to the Children's Internet Protection Act (CIPA) in *American Library Association, Inc. v. United States*.# The Act requires public libraries that receive certain types of federal funds to install blocking software that prevents library visitors from accessing sexually explicit materials on the web. Holding that the use of this software violates patrons' First Amendment rights because it erroneously blocks vast amounts of protected speech – including the websites of an orphanage in Honduras and various religious groups -- the federal district court for the eastern district of Pennsylvania struck down the Act on May 31.

“Internet access in libraries provides a window to the world for many people who would not otherwise be able to take advantage of this extraordinary resource,” said Ann Brick of the ACLU-NC. “The court made clear that any attempt to censor this crucial public forum for communication must meet the highest level of First Amendment scrutiny. CIPA fails that test.” This comes on the heels of a first-of-its-kind ruling in *Kathleen R. v. Livermore* last year, when the state Court of Appeals in San Francisco ruled that public libraries cannot be held liable when young people find pornographic materials on the web. Brick served as a friend of the court and participated in oral argument in that case.

Free Speech in Cyberspace

On June 27th, the U.S. Supreme Court dealt the ACLU a temporary setback when it issued its ruling in *Ashcroft v. American Civil Liberties Union*. The ACLU is challenging the Child Online Protection Act (COPA), which criminalizes website content deemed “harmful to minors.”

Although the High Court disagreed with the Third Circuit Court of Appeal's reasoning in striking down the Act, it kept in place the preliminary injunction prohibiting the Act's enforcement and sent the case back to the Third Circuit so that it can consider the ACLU'S other constitutional arguments.

Meanwhile, a high-profile brouhaha the enforceability of a French court's order here in the United States has moved on to the Ninth Circuit Court of Appeals. In May, the ACLU-NC, the national ACLU and an impressive consortium of free speech advocates filed an amicus brief in *Yahoo! Inc. v. La Ligue Contre Le Racisme et L'Antisemitisme*. The U.S.-based Internet portal is challenging a French court's order requiring it to censor web content related to Nazism. The ACLU is urging the court to uphold a November 2001 district court ruling which said that enforcement of the French court's order would violate the First Amendment rights of Yahoo!'s American users.

Jurisdiction Beyond Borders

The ACLU-NC has also sprung to the defense of a former Indiana student who was sued in California -- over information he posted on his website. When a 15-year-old Norwegian boy figured out how to disable the encryption mechanism of DVD movies so that they could be played on computers and DVD players lacking the official decryption system, he posted the program online. Dozens of people including Matthew Pavlovich, then a student at Purdue University, followed suit. The DVD industry trade association then sued a host of individuals, including Pavlovich, in an effort to force them to remove the information from their websites. In an amicus brief filed with the California Supreme Court in *DVD Copy Control Association v. Pavlovich*, the ACLU argued that posting information on the Internet is not enough to require a non-Californian to defend himself in a Californian court.

"This case raises numerous thorny questions, including whether a California court has jurisdiction over a defendant with no connection to the state," said Brick. In our brief, the ACLU-NC argues that the appeal court's conclusion that the instant access provided by the Internet "is the functional equivalent of personal presence of the person posting the material" is at odds with existing precedent.

Visit www.aclunc.org/cyberliberties for more information on all of these cases.

"The suit raises numerous thorny questions, including whether a California court may exercise jurisdiction over a defendant with no connection to the state."

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U.S. Supreme Court Highlights

It was a term of sweet highs and bitter lows. The ACLU celebrated landmark decisions banning the execution of the mentally retarded and bolstering online First Amendment rights as the U.S. Supreme Court's 2001 term ended on June 27th. Nevertheless, with rulings upholding school vouchers and expanding student drug testing, among others, overall the Court solidified its conservative record. "This Court will ultimately be remembered for its conservative judicial philosophy and activist judicial temperament," said ACLU legal director Steven R. Shapiro.

"This Court will ultimately be remembered for its conservative judicial philosophy and activist judicial temperament," – Steven R. Shapiro, ACLU

These are some of the key rulings of 2001.

Atkins v. Virginia: No Executions for the Mentally Retarded

In a remarkable U-turn, the Court responded to mounting concern about fairness and accuracy in the application of the death penalty by banning the execution of mentally retarded people. The Court rejected a similar plea 13 years ago.

Ring v. Arizona: More Power to Jurors in Death Penalty Trials

The Court called into doubt the validity of hundreds of death sentences around the country just one week after *Atkins*. In *Ring*, it ruled that critical sentencing issues in death penalty trials must be decided by a jury rather than a judge.

Zelman v. Simmons-Harris: Green Light for School Vouchers

For the first time, the Court approved a plan that permits millions of dollars of taxpayer money to be transferred to parochial schools where it can be used for religious instruction. In *Zelman*, in which the ACLU served as co-counsel, the Court rejected a challenge to Cleveland's voucher program. The ACLU's Shapiro hailed this ruling as "bad for education and bad for religious liberty."

Board of Education v. Earls: Drug Tests for Choir Kids

Drug tests for school kids secured a significant boost in *Earls*. In a case argued by the ACLU on behalf of an Oklahoma high school choir member, the Court rejected a challenge to a school policy requiring random drug tests for all students who participate in extra-curricular activities.

Ashcroft v. ACLU: Curbing Internet Censorship

[\(click here for details\)](#).

Ashcroft v. Free Speech Coalition Free Speech Victory for "Virtual Porn"

[\(click here for details\)](#).

HUD v. Rucker: One Strike Evictions Upheld

In *Rucker*, the Court upheld the Oakland Housing Authority's "one strike and you're out" policy governing drug use in public housing. The policy allows tenants to be evicted if someone connected to their household engages in drug related activities – even without the tenant's knowledge. The ACLU and ACLU-NC served as friends of the court.

Visit www.aclu.org/court/court_summary01.pdf for a full summary of the Term's decisions from the national ACLU.

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Free Speech for Nike, Inc.

When Nike, Inc. came under fire over conditions in its overseas factories, the shoe giant fired back and a war of words began.

“[T]he very same First Amendment that allows me to make these assertions about Nike must also allow Nike to defend itself” - Bob Herbert

Prominent critics, including *New York Times* columnist Bob Herbert, alleged that workers in China, Vietnam and Indonesia were engaged in backbreaking labor, sometimes enduring physical abuse as they toiled for skeleton wages to make Nike's premium-priced shoes. When Nike responded to the charges with a letter to the editor and press releases of its own, the company found itself a defendant in a lawsuit charging it with engaging in unfair business practices and false advertising.

The suit raised troubling free speech issues for the ACLU. The statements at issue are not advertising in any traditional sense; rather, they constitute Nike's attempt to engage in a public debate about its business practices. Therefore, in a brief before the California Supreme Court, the ACLU-NC contended that to consider these statements commercial speech is to stretch the definition of commercial speech too far.

“Our main concern in this case was to ensure that important First Amendment protections not be eroded because the speaker or the speech is unpopular,” said Ann Brick of the ACLU-NC. “In a political debate about economic issues, the same rules must apply to Nike and to its critics – both have a right tell their side of the story. To hold Nike's speech to a different standard because we don't like what the company says is dangerously inconsistent with First Amendment values.”

The California Supreme Court disagreed, ruling 4-3 on May 2 that Nike's statements were commercial speech and that the suit should proceed. However, the ACLU did win over an ally: Herbert, whose own columns roundly criticizing Nike helped spark the lawsuit, wrote a compelling editorial supporting the sneaker empire's right to “stay in the game.”

“Although it pains me to say it, I am not in favor of stifling the speech of the loud and obnoxious and terminally exploitative Nike Corporation,” wrote Herbert. “[T]he very same First Amendment that allows me to make these assertions about Nike must also allow Nike to defend itself.... In America,” concludes Herbert, “that kind of speech, even if it is not always accurate, deserves unyielding protection.”

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Fighting for Freedom

July 4th. It is a day when people all over America celebrate freedom. This Independence Day, nine months after the Bush administration began dramatically to curtail our civil liberties and rights, the ACLU of Northern California set out to remind Americans of the values that define this nation, and to call on the government to restore our precious rights. If not our freedom, after all, what are we fighting to defend?

From the release of a scorecard summarizing the toll taken on our liberties (p.5), to the launch of a campaign calling for protections for Californians' privacy rights, (below) to a new lawsuit challenging discrimination by a major airline (p.4), in this issue you can find out more about our work to defend freedom during these troubling times. To find out more about what you can do to join the fight for freedom, visit www.aclunc.org/fightingforfreedom.html

Restoring Freedom on Independence Day

By Dorothy Ehrlich

A shorter version of this article appeared in the San Francisco Chronicle on July 4th.

July 4th is a quintessential American holiday. But for the fog along the coast, it is a warm, summer celebration where barbecue and fireworks take center stage – a day when we focus on the pursuit of happiness.

But this Independence Day has more significance. As a nation, we are reeling from the trauma of a domestic terrorist assault. And in response, we have witnessed the erosion of the fundamental freedoms this day is meant to celebrate.

Like most Americans, I agree that the government must protect our safety since September 11. But I have been confounded by the Bush administration's single-minded pursuit of the war on terrorism with little regard for the Constitution.

Privacy, freedom and justice have been upended, with little evidence of enhanced safety. Attorney-client privilege has been eroded; immigrants' rights shredded; freedom of information is under assault. Instead, we have military tribunals, race-based questioning dragnets, expanded wiretap powers, and a "neighborhood watch" program that encourages us to spy on our neighbors. But perhaps the coup de grace was U.S. Attorney General's reversal of decades-old regulations that barred the intelligence agencies from monitoring political and religious institutions without probable cause.

Those regulations were in place for a reason. A recent *San Francisco Chronicle* report unveiled remarkable abuses by FBI and CIA in the '60s and '70s, when the agencies systematically infiltrated UC Berkeley, sabotaged the Free Speech Movement and ousted then- University President Clark Kerr. And Kerr was far from alone.

The agencies' overreach destroyed thousands of lives. They launched a mind-boggling smear campaign against the Rev. Martin Luther King, Jr. They spied on lesser-known activists like Frank Wilkinson, a housing advocate who was watched tirelessly by the FBI for three decades. His surveillance generates a pile of 132,000 documents reaching seven stories tall and a totaling

taxpayer tab of \$17 million.

Even after new guidelines were established in the 1970s, the abuse continued. In June, a jury handed down a \$4 million ruling against the FBI and the Oakland police for violating the First and Fourth Amendment rights of two Earth First activists who were victims of a car bomb attack. The agencies tried to discredit Judi Bari and Darryl Cherney, claiming that they had planted the bomb themselves, and failed to find the real culprits.

In these cases, our intelligence agencies misused taxpayer money by targeting people who disagree with government policy. With the sweeping new powers now granted these same agencies, allowing them to spy in libraries, mosques, churches, on the Internet and in colleges, I fear that rather than learning from history, we are destined to repeat it. And finally, I fear that the brunt of this backlash will continue to be borne by these of Middle Eastern descent, whether at school, at work, while traveling, or as targets in the government's sweep of thousands of Middle Eastern men.

So this July 4th, perhaps we need to put down the beach ball and the potato salad for a moment and acknowledge the many liberties we have lost. This Independence Day, instead of fireworks, we should ignite a movement to restore those freedoms. That would be something to celebrate.

“...Instead of fireworks, we should ignite a movement to restore those freedoms. That would be something to celebrate.”

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Demonstrators and Dissent

Ever since the Attorney General's infamous words that those who disagree with the government agenda are "giving ammunition to our enemies," the ACLU has exercised extra vigilance, concerned that this new political climate may have a chilling effect on the free expression of dissent.

This spring, three separate incidents in our own backyard gave cause for concern.

"The right to express ideas that are controversial and unpopular must be vigilantly protected." -- Alan Schlosser

Free Speech at U.C. Berkeley

It began at the birthplace of the free speech movement: U.C. Berkeley. With violence mounting in the Middle East in May, pro-Israeli and pro-Palestinian students held dueling rallies on campus. Tensions were high when members of Students for Justice in Palestine (SJP) moved their protest indoors to conduct civil disobedience. What happened next raised the temperature still higher. The University responded by threatening to suspend for up to a year the 41 students who were arrested for trespass, and issued an interim suspension of SJP (which it rescinded days later). This crackdown on the pro-Palestinian group was harsh compared to the way the University handled previous demonstrations, asserted the ACLU-NC and the UC Berkeley Campus ACLU in a letter to UC Berkeley Chancellor Robert M. Berdahl, which questioned the legality and fairness of the university's reaction.



One of the 79 demonstrators arrested for protesting at UC Berkeley's Wheeler Hall



"The University's reaction to the April 9th sit-in has a chilling effect on the students' right to free speech, especially at time when freedom of expression is so critical to our democracy," said ACLU-NC legal director Alan Schlosser. "The right to express ideas that are controversial and unpopular must be vigilantly protected."

Safety and Tolerance at SFSU

Days later, the ACLU-NC wrote a second letter calling on a local university to ensure a "safe and tolerant environment" – this time San Francisco State University (SFSU). Clashes between demonstrators expressing divergent views on the Middle East conflict degenerated into an intimidating environment on May 7, 2002. As a result, the University turned over tapes of the protests to the District Attorney's office for possible hate crimes violations.

Another demonstrator arrested for protesting at UC Berkeley's Wheeler Hall "Some participants at the demonstration report that they were physically surrounded, threatened and detained by counter-demonstrators," the letter says. " If true, this indicates a failure on the university's part to ensure that both sides be able to express their views at a political demonstration.... We would expect San Francisco State – historically, the site of many robust political protests—to have experience with opposing demonstrations and to utilize that experience to provide an appropriate forum for political discussion in these circumstances."

The university responded by creating a taskforce to review issues of inter-group relations on campus, and no charges were filed against the demonstrators. But the issue did not end there. Pro-Palestinian students approached the ACLU, concerned about a mandatory mediation process set up by the SFSU, which threatened four student organizations with loss of organizational recognition and rights if they failed to "complete this process by June 15, 2002."

"The institution of a new and untested mandatory procedure, under the threat of sanctions if a resolution is not reached in a few weeks, raises questions and concerns about whether this mediation will occur under conditions and in an atmosphere conducive to bringing groups together," wrote Schlosser, in a letter urging SFSU President Robert Corrigan to ensure that the mediation process is fair and respects students' rights.

CHP Employs Aggressive Tactics Against Peaceful Protesters

What started as a peaceful protest against the war on terrorism on the Golden Gate Bridge ended as yet another shameful chapter in the history of the California Highway Patrol (CHP).

Anti-war and pro-Palestinian protesters with the All People's Coalition (APC) secured a permit to march from San Francisco over the bridge to Marin on Saturday May 25th. Twenty-five minutes before the permit expired, dozens of CHP officers wielding batons and wearing full riot gear forcibly broke up the rally, blocking the marchers from advancing. CHP officers pushed protestors with batons and arrested several protesters. When some demonstrators peacefully resisted arrest, officers pried them apart and sprayed a mist that press accounts identified as pepper spray. Officers also arrested and manhandled an 11-year-old girl.

Days later, the ACLU-NC joined with a broad array of groups, including the American-Arab Anti-Discrimination Committee (ADC), the Council on American-Islamic Relations (CAIR), and the Ella Baker Center, to denounce the CHP's actions. The groups called on the CHP to mount a full investigation into the incident, make public a full report, including how the decision to break up the rally was made; work with civil liberties groups to formulate new policies for dealing with future demonstrations; and to conduct sensitivity trainings for officers on dealing with protests involving Arab, Muslim and South Asian communities.

The ACLU-NC also wrote a letter to the CHP sharply criticizing their response to the May 25 protest. "The CHP's premature and forcible ending of the May 25th march has ramifications beyond that particular march," wrote the ACLU-NC's Jayashri Srikantiah. "When one group of peaceful protesters is greeted with dozens of police officers in riot gear, wielding batons and even pepper spray, other protesters are understandably deterred from engaging in similar marches. We live in a time of national crisis when Americans are privately and publicly engaging in vigorous debate about American domestic and foreign policy. Now is a time when the government should be particularly vigilant in protecting the First Amendment rights of Americans, especially those who, like APC, might express an unpopular viewpoint."

To learn more about your rights to protest at this troubling time, visit www.aclunc.org/publications.html and download a copy of *The Rights of Demonstrators*.

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Summer 2002

Freedom Scorecard Details Liberties Lost

As America celebrated independence on July 4th, the ACLU of Northern California marked the occasion by releasing a scorecard that summarizes the toll of the Bush Administration's policies on Americans' constitutional freedoms. The tally: Bush Administration, 20; Constitution, 0. The scorecard and an accompanying chronology document dozens of government actions that have limited constitutional freedoms since September 11th. They include the expansion of wiretapping and secret search powers under the USA Patriot Act; the Attorney General's directives ordering broad questioning sweeps of young men of Middle Eastern and South Asian origin; the erosion of attorney-client privilege, media freedom and immigrants' rights; and the loosening of regulations governing intelligence-gathering procedures.

While acknowledging the need for enhanced safety in the wake of the September 11 attacks, ACLU-NC experts say some erosions of freedom may actually work counter to the government's goals.

"The Administration has a duty to investigate the attacks of September 11," says Jayashri Srikantiah, an attorney with ACLU-NC. "But it also has a duty to uphold the Constitution. Its failure to protect our rights has had a very real impact, creating a climate of fear among immigrants and communities of color, who are bearing the brunt of the backlash in our schools, at work, while traveling, and even in their homes."

BUSH ADMINISTRATION VS. THE CONSTITUTION: A Civil Liberties Scorecard, July 4 th , 2002			
Action	Govt.	People	Liberties lost
Congress abdicates oversight responsibilities, granting President Bush unfettered power to wage war on terrorism. 9.15.01	1	0	Separation of powers
Chief Immigration Judge orders closed deportation proceedings. 9.21.01	1	0*	Immigrants' rights, open democracy
Ashcroft memo reduces government compliance with Freedom of Information Act requests. 10.17.01	1	0	Open democracy
White House asks media outlets not to airtapes of Osama Bin Laden. Major networks comply. 10.11.02	1	0	Free press
USA PATRIOT ACT, 10.26.01:			
✓ Wiretap powers expanded, in some cases with reduced judicial review	1	0	Privacy, search & seizure protection
✓ Law enforcement permitted to indefinitely detain non-citizens based on suspicion of terrorism	1	0	Immigrants' rights, due process of law
✓ "Sneak and Peek" searches authorized without a warrant with low showing of probable cause	1	0	Privacy, search & seizure, protection
✓ Broad definition of 'domestic terrorism' allows surveillance of political dissenters	1	0	Free speech, privacy, search & seizure protection
✓ New information-sharing powers for intelligence agencies	1	0	Privacy, consolidation of government power
Ashcroft authorizes monitoring of attorney-client conversations. 10.31.01	1	0	Due process, privacy, right to counsel
Ashcroft orders two questioning dragnets of Middle Eastern and South Asian men. 11.9.01, 3.20.02	2	0*	Equal protection
Presidential order allows non-citizens to be tried in military tribunals. 11.13.01	1	0	Due process, immigrants' rights
Aviation and Transportation Security Act bars non-citizen airport screeners. 11.19.01	1	0*	Immigrants' rights
Ashcroft orders state and local government not to release names of people detained since 9/11. 4.18.02	1	0*	Open democracy, immigrants' rights
Ashcroft's new rules on intelligence-gathering permit:			
✓ spying on religious and political institutions without any suspicion of criminal activity	1	0	Privacy, free speech, due process
✓ the purchase of secret records on individuals who are not suspected of a crime. 5.30.02	1	0	
President establishes new cabinet-level Department of Homeland Security. 6.6.02	1	0*	Consolidation of government power
President designates U.S. citizen Jose Padilla an 'enemy combatant,' under military jurisdiction. 6.9.02	1	0	Due process,
White House announces Operation TIPS, which will deploy utility workers as government spies. 7/15/02	1	0	Privacy, search & seizure protection
DOJ announces that non-citizens must report change of address within ten days. 7/22/02	1	0	Immigrants' rights
Federal court judge orders release of the names of those detained after 9/11. 9.2.02	0	1*	
Following public outcry and US Postal Service refusal to participate, government scales back TIPS. 8.9.02	0	1	
New DOJ plan requires fingerprinting and registration of lawful visitors from mostly Muslim nations. 9/12/02	0	1	Immigrants' rights
Foreign Intelligence Surveillance Court rejects DOJ request for broader cooperation and evidence-sharing between counterintelligence investigators and criminal prosecutors. 8.22.02	0	1	
DOJ gains power to deputize local and state police to enforce immigration laws in an "emergency." 8.23.03	1	0	Immigrants' rights
Federal appeals court declares secret deportation hearings unconstitutional in ACLU case. 8/26/02	0	1*	
TOTAL	Govt: 22	People: 5	

While acknowledging the need for enhanced safety in the wake of the September 11 attacks, ACLU-NC experts say some erosions of freedom may actually work counter to the government's goals.

"Leading intelligence experts have cautioned against racial profiling since September 11, warning that it is no substitute for identifying suspicious patterns of behavior and that it alienates communities that law enforcement needs to engage," said police practices policy director Mark Schlosberg. "Furthermore, given the well-documented failures of the FBI to interpret the information agents had gathered before September 11, it is hard to fathom how gathering vast quantities of useless information by conducting broad 'fishing expeditions' in religious and community institutions will help keep us safe."

The ACLU has mounted challenges to some of the more egregious infringements on individual rights, and expresses optimism that civil liberties will be restored. "Round one goes to the government," says Schlosberg. "But I believe that, with the help of the Courts and the Congress, the American people will get their freedoms back."

"If we allow fear to define us, this nation will become less tolerant, more divided, and

much less free," says Dorothy Ehrlich, executive director of the ACLU-NC. "The Bush Administration has repeatedly warned that this war will last for very long time. We should not allow our fear to extinguish the freedoms that make this nation strong."

For a copy of the chronology *Civil Liberties in the post 9/11 world*, please visit www.aclunc.org/fightingforfreedom.html

Is the Cable Guy a Government Spy?

As the *ACLU News* went to press, the government upped the anti-civil liberties ante further with Operation TIPS (Terrorist Information Prevention Service). Due to be introduced as a pilot project in August 2002, TIPS will recruit one million volunteers in ten cities to report suspicious, ostensibly terrorism-related activity. The program will target volunteers who because of their work as, for example, letter carriers and utility technicians are "well-positioned to recognize unusual events," the White House says. The ACLU fears that law enforcement will use these volunteers -- especially those whose occupations allow them to enter homes -- to search people's residences without a warrant. Also worrisome is the potential for the program to adversely affect the fight against terrorism by wasting resources on useless tips, and the possibility that the program will encourage vigilantism and racial profiling.

Stay tuned for more on Operation TIPS!

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Sacramento Report Zero Hour for Crucial Bills

As the 2002 legislative session draws to a close, the ACLU's Sacramento office is working furiously to ensure the passage of several crucial bills – and is just as vigorously fighting initiatives that threaten our civil liberties and rights. The ACLU needs your support on bills that will guarantee new rights to domestic partners, protect the financial privacy of Californians, and create a reproductive rights law to make our granddaughters proud. And, we need your help to thwart the Governor's efforts to create a backdoor National ID card. Read on and visit www.aclunc.org/takeaction.html to learn more about these bills – and about what you can do to help.

Domestic Partners in the Spotlight

Last year, California enacted the most progressive law in the nation on domestic partners benefits with **AB 25**, by Carole Midgen (D-San Francisco). Now, two crucial new bills could take California two steps further.

Authored by Assistant Assembly Speaker Pro Tem Christine Kehoe, **AB 1080** would prohibit state agencies from entering into contracts with vendors or contractors whose employment benefits discriminate against employees with domestic partners. The bill is modeled on the exemplary domestic partners benefits ordinance enacted by the City and County of San Francisco, which the ACLU-NC and the ACLU Gay and Lesbian Rights Project vigorously helped defend in the courts last year. Similar ordinances are now in place in the county of San Mateo and the cities of Oakland, Berkeley and Los Angeles. "**AB 1080** begins the process of ending marital status discrimination by recognizing the reality of the family relationships of many of our state's residents and ending the disadvantageous treatment now afforded these non-married couples," says Francisco Lobaco, ACLU legislative director.

An effort made particularly pertinent by the struggle for recognition by domestic partners of victims of the September 11 attacks, **AB 2216**, by Assembly Speaker Pro Tem Fred Keeley, provides surviving registered domestic partners the right to inherit a specified share of a partner's estate if a partner dies without a will. "Ensuring this bill will help encourage domestic partners to act as a family unit in financial matters and will protect each of the partners if they make economic sacrifices for the benefit of the domestic partnership," says Lobaco.

AB 1080 and **AB 2216** passed out of Senate Judiciary Committee in June and will now advance to the Senate Appropriations Committee for fiscal consideration. Both bills are sponsored by the California Alliance for Pride and Equality (CAPE).

Take Action! Ask your state legislators to affirm California's commitment to equality for all families by supporting **AB 1080** and **AB1266**. Visit www.aclunc.org/takeaction.html to find out more.

Your Money, Your Business

Do you want your bank to share information about your finances with other institutions? If the answer is 'no', the ACLU needs your help.

SB 773 by Senator Jackie Speier (D-Hillsborough) is a crucial bill that protects financial privacy by requiring that banks and insurance companies get permission before sharing Californians' personal information. The federal Financial Services Modernization Act of 1999 allowed for the creation of vast new financial conglomerates that combine the traditionally separate industries: banking, insurance and brokerage houses. Now, through shared databases, these conglomerates are able to exploit our private information in new and powerful ways. **SB 773** makes it illegal for financial institutions to

share information with affiliated companies unless they tell customers and give them the chance to say no. Without getting customers' positive consent, they may not share information with non-affiliated companies.

"This is our chance to regain control over our own privacy, to reduce our exposure to high-risk schemes and to cut down on junk mail and telemarketing calls," says Valerie Small Navarro, ACLU legislative advocate. "Our privacy rights are on the auction block and we need to tell our elected officials that we want them back."

Take Action!

SB 773 bill needs nine crucial votes to get off the Assembly floor. If you live in the districts below, now is the time to write and urge your representative to support **SB 773**. Visit www.aclunc.org/takeaction.html or call Maria Archuleta, 415-621-2493x346 to learn more.

- Joe Canciamilla (D-Contra Costa)
- Denis Cardoza (D-Merced, San Joaquin)
- Rebecca Cohn (D-Santa Clara)
- Barbara Matthews (D-San Joaquin)
- Joe Nation (D-Marin, Sonoma)
- Simon Salinas (D-Monterey, San Benito, Santa Clara)
- Helen Thomson (D-Sacramento, Solano, Yolo)

Drivers Licenses for Immigrants – or a Backdoor National ID?

At first, **AB 60** (Cedillo, D-Los Angeles) was a simple solution to a pressing problem. The bill allowed immigrants who were in the process of securing legal status to obtain a drivers license. **AB 60** was good for immigrants and good for public safety – until Governor Davis stepped in. In an unusual procedural maneuver, which is being challenged by the Mexican American Legal Defense and Educational Fund (MALDEF), after the bill was sent to the Governor's desk, the Assembly's Chief Clerk retrieved the bill and returned it to the Legislature. The Governor requested that a slew of provisions be added to a companion bill that turn this once elegant solution into a backdoor effort to make the California drivers' license part of a National ID system. The amendments provide that all people must give a digital thumbprint to obtain a drivers license and mandate that all immigrant applicants undergo a Department of Justice background check and an FBI "wanted fugitive check." In addition, with a simple electronic swipe of the license, law enforcement will be able to identify people as undocumented immigrants.

"This is the first step down a slippery slope toward an ID system that will allow for the discriminatory treatment of immigrants and for dramatic curtailments of Americans' privacy rights," said ACLU legislative advocate Valerie Small Navarro. "We don't want these dangerous provisions added. **AB 60** is an important bill that should not be loaded down with a companion bill containing these provisions."

Take Action! Write the Governor and the leaders of each house of the Legislature know that you do not want the amendments added.. Visit www.aclunc.org/takeaction.html to find out more.

No More Executions for the Mentally Retarded

An ACLU-supported effort to bar the execution of people with mental retardation took a dive last year after Assembly Democrats, wary of being dubbed soft on crime, stifled it in committee. But in 2002, the political scene saw a dramatic shift. In a landmark decision on June 27th, the U.S. Supreme Court ruled it unconstitutional to execute people with mental retardation, citing a "growing national consensus" about troubling flaws in the application of the death penalty. The momentous ruling was out of step with California law, but consistent with laws in 30 states, which had either outlawed capital punishment or the execution of the mentally retarded. Now, Assemblywoman Dion Aroner (D-Berkeley) is back with **AB 557**, which will create a process to implement the decision in California. The bill is currently pending in the Senate Public Safety Committee.

One Step Closer to Reproductive Privacy

Californians came one step closer to bringing the state's archaic abortion laws into step with federal law when the Reproductive Privacy Act (**SB 1301**, D-Kuehl) passed out of Senate Judiciary Committee. The bill is now pending in Senate Appropriations. Learn more about this bill and find out what you can do to help provide California's women with the reproductive rights they need at www.aclunc.org/takeaction.html.

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Strike Two for Connerly: Initiative Rolls Over to March 2004

California voters just aren't buying Ward Connerly's vision. That message resounded across the state in June when the anti-affirmative action activist failed for the second time to qualify his "Racial Privacy Initiative" for the intended ballot. The measure, which will bar state and local agencies from gathering information on race, will not go before the voters in November 2002. Instead, it will roll over to the next statewide election in March 2004.

"No one bets on a horse with a record like this one, even if you happen to like its name."

- David Mermin, pollster, Lake Snell Perry & Associates

"What a blow to this already struggling campaign," said David Mermin, a pollster and consultant with Lake Snell Perry Associates. "Given the low approval ratings in early polls – less than a majority, which signals trouble – I think you'd have to say this initiative is on the ropes. This latest failure demonstrates more pointedly that despite a very well-funded signature-gathering campaign, voters are skeptical."

Connerly put the initiative on the backburner in 2001 after a lackluster showing during the signature-gathering phase. A year later he was back, this time increasing the per-signature payout to signature gathering professionals. Even so, in April, the Sacramento businessman filed just enough signatures to qualify the initiative -- so few that local counties were forced to engage in the costly and time-consuming process of verifying every signature. This process pushed certification beyond the June 27th deadline for qualification for the ballot for November 2002.

"This second failure to qualify is bad news for Connerly and good news for California," said Dorothy Ehrlich, executive director of the ACLU –NC. "Our research shows that the more voters learn about this deceptive initiative, the more concerned they become. With extra time to debate this experiment on the state, I think the voters will call strike three in March 2004."

Mermin agreed, saying: "No one wants an initiative they're backing to falter like this. An initiative that completely fails to garner public support in its first outing, then comes out in round two with this very anemic performance, which is going to trigger an expensive full-verification process, costing taxpayers millions of additional dollars, raises a red flag to its backers and potential donors. No one bets on a horse with a record like this one, even if you happen to like its name."

Opponents argue that the initiative would devastate the state's public health and education programs, and rob Californians of information about the state's progress in rooting out disparities based on ethnicity and race. Proponents say that barring the collection of information on race and ethnicity is the first step toward creating a "colorblind society."

Even Connerly has conceded that support for the controversial initiative has failed to materialize, saying that he needs more time to "educate Californians about race." In April, Connerly asserted that he deliberately turned in just a portion of the signatures because he wanted to buy time, forcing the signature verification process that would push initiative on to the March 2004 ballot.

"If he really did this deliberately, Connerly is thumbing his nose at voters and playing a costly game in the midst of a budget crisis," said Maria Blanco, National Senior Counsel for the Mexican American Legal Defense and Education Fund (MALDEF). First he refuses to disclose the source of the money for his campaign, and then he sticks Californians with the price for his political gamesmanship."

In related news, on July 9, the Women League of Voters of California, Common Cause and other public interest groups filed a complaint with California's Fair Political Practices Commission, arguing that Californians have a right to know the sources of \$1.5 million in contributions to the initiative campaign. By channeling donations through his non-profit organization, the American Civil Rights Coalition, Connerly has kept the identity of key backers under wraps, violating three provisions of California's Political Reform Act, according to the groups.

To find out more about the campaign to defeat the Connerly initiative, visit www.aclunc.org http://www.aclunc.org/connerly_initiative/

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Students Give State an Exam of Their Own

By Katayoon Majd, Racial Justice Project

Q: Where does California rank among all 50 states for student-teacher ratio?

A: Dead last.

This question is one of many on a "state accountability exam" delivered to California policymakers by more than 150 students, parents, teachers and advocates, including staff from the ACLU-NC, who traveled to Sacramento to meet with legislators, reporters and the California School Board on June 26th.

"The people who should get the failing marks are the adults, not the students,"

Assemblywoman Jackie Goldberg

"If you want to motivate students, give us good teachers," Eric Avalos, student

The advocates, members of an emerging statewide coalition, drove home a powerful but simple message: the state of California is accountable for providing a quality education for all of our kids. In particular, the coalition called for the postponement of the High School Exit Exam (HSEE), which is due to become a requirement for graduation in 2004, until the state demonstrates that it is giving low-income students and students of color a fair chance to succeed (see demands, inset).

"The people who should get the failing marks are the adults, not the students," said Assemblywoman Jackie Goldberg, (D-Los

Angeles), a former teacher. Senator John Vasconcellos (D-San Jose) and Assemblywoman Virginia Strom-Martin (D-Santa Rosa) joined Goldberg to launch "state accountability day" at the coalition's news conference.

Currently, students of color, immigrants and low-income students are much more likely than their white, middle-class counterparts to attend schools with untrained teachers, inadequate textbooks, and unsafe, filthy, and overcrowded facilities. Schools with high concentrations of poverty and high numbers of English learners –the same schools that have majority student of color populations -- are twelve times more likely to have uncredentialed teachers, according to a recent Harris poll. Such inequities are the subject of a pending class action lawsuit, *Williams v. State of California*, in which ACLU-NC is co-counsel.

These inequities also likely contributed to the disproportionately high failure rates of low-income, English-learner, African American, Latino, Native and Pacific Islander students during the first administration of the HSEE. "We attend schools with long-term substitute teachers, poor facilities and poor conditions. Students shouldn't be punished for the failure of the state," said Yvonne Tran, a student from San Jose.

Highlights of the State Accountability Exam:

- ✓ What is California's rank among all 50 states for per-pupil spending, when adjusted for the cost of living?
a) 33rd b) 37th c) 41st d) 48th
- ✓ What is California's rank among all 50 states for student-teacher ratio?
a) 5th b) 12th c) 24th d) 50th
- ✓ The state will deny diplomas based on the HSEE results to students who:
b) have met every other requirement of graduation
c) already dropped out of high school
d) did not complete the class required to graduate

As well as briefing reporters and legislators on the poor state of education in the Golden State, advocates testified before the State Board of Education. "If you want to motivate students, give us good teachers," said Eric Avalos, a student with Youth Organizing Communities in San Diego. Calling the High School Exit Exam "a sophisticated form of racial profiling," San Francisco Unified School District (SFUSD) Commissioner Eric Mar urged the State Board to follow the lead of SFUSD and the Los Angeles Unified School District. Both districts recently resolved to investigate alternative assessment tools to high-stakes tests.

Participants left Sacramento with a sense of hope that opposition to the High School Exit Exam will continue to build. The day set in motion a multiyear campaign for educational equity led by the Californians for Justice, the Community Coalition, Public Advocates, Justice Matters Institute, and the ACLU-NC's Racial Justice Project.

Student Bill of Rights

We are calling on the state to delay implementation of the HSEE until it provides:

- A rigorous curriculum with access to the A-G requirement classes that are necessary to apply to a state university
- Adequate instructional materials and textbooks
- A safe, sanitary, and healthy school learning environment
- Experienced and credentialed teachers who receive strong support and learning
- Comprehensive programs for supporting English Learner students
- Fair and effective discipline policies that use suspension and expulsion only as a last resort.

TAKE ACTION to protect educational rights!

Write the State Board of Education asking them to do the following: 1). Suspend implementation of the HSEE until the state is providing all our kids a quality education; 2) Follow the lead of the SFUSD and LAUSD and explore alternative assessment tools to high-stakes tests. Visit www.aclunc.org for a sample letter.

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Victory in Voting Rights Case

California voters won crucial protections for their rights when a consent decree brought to a close *Common Cause v. Jones* in May.

In the case, the ACLU and co-counsel challenged the use of antiquated punch-card voting machines in nine California counties. The suit charged that the use of the error-prone machines, which brought the country to a virtual standstill after the 2000 Presidential elections, violated the Equal Protection Clause, as well as the Voting Rights Act because the counties that use them have high minority populations.

Secretary of State Bill Jones agreed to decertify the machines – but in January 2006, too late for the Presidential elections in 2004. When the ACLU challenged the timing, a federal court in Los Angeles agreed. The two sides then entered into a consent decree that will protect the rights of voters in Alameda, Los Angeles, Mendocino, San Diego, Shasta, Solano, Sacramento, San Bernardino and Santa Clara counties in time for the elections of 2004.

The case was filed by ACLU of Northern California; ACLU of Southern California; ACLU of San Diego and Imperial Counties; Munger, Tolles & Olson; Altshuler, Berzon, Nussbaum, Rubin & Demaine; and Heller, Ehrman, White & McAuliffe.

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Profile of an Activist: David Carducci, BARK Chapter

by Maria Archuleta

"I don't have great story about life struggles that galvanized my commitment to civil liberties," said David Carducci, BARK (Berkeley, Albany, Richmond, Kensington) Chapter Field Representative. "I just feel that people should be treated with fairness, and I want to fight for that ideal. The ACLU is the organization that does that."

Two years ago, Carducci found a way to fight for his ideal when he joined the B.A.R.K. Chapter. He and his Chapter have worked on a wide range of civil rights issues including actively monitoring Berkeley's Police Practices Commission to ensure more citizen friendly responses to complaints about law enforcement; successfully advocating for the passage of a City of Berkeley ordinance that permits the cultivation of marijuana for medicinal use; supporting legislation in favor of Death with Dignity; and maintaining a civil rights hotline. In addition, whenever the opportunity arises, Carducci and the Chapter are out in the community tabling at local events and street fairs to recruit new members and talk to the public about civil rights issues.

For the past year, Carducci has also represented his Chapter on the ACLU-NC's Field Committee and Board of Directors. Since January, he has served on the ACLU-NC Legal Committee. Although Carducci is a relative newcomer to the ACLU, he is no stranger to fighting for people's rights. For the last several years, he has been a staff attorney at Bay Area Legal Aid, the largest local provider of free civil legal services for low-income people. He specializes in housing discrimination cases and usually represents people with disabilities.

"I like for there to be a level playing field," said Carducci. "That's why I like representing disabled people. We step in and make it a fair fight."

The ACLU-NC's Legal Committee benefits from Carducci's professional expertise. Robert Capistrano who serves with Carducci on the committee said, "Dave is very knowledgeable about discrimination be it on the basis of disability, race, family status, composition or national origin. He also has a great deal of experience with clients who are actually affected by ACLU cases." Like Carducci, Capistrano also works for Bay Area Legal Aid.

"Dave is quick to volunteer for projects, and he really goes out of his way to help people get work done," said Chapter member, Philip Meehas. "He's a great asset to our Chapter and to the ACLU."

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