

ACLU SUMMER 2005 news

BECAUSE FREEDOM CAN'T PROTECT ITSELF

VOLUME LXIX ISSUE 3

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ACLU PRESSES FOR PATRIOT ACT REFORM: CONCERN GROWS AS HOUSE RENEWS ANTITERRORISM LAW

By Kristen Jones and Julia Daniels

The ACLU of Northern California (ACLU-NC) campaigned hard this summer to keep Congress from making permanent the most intrusive provisions of the USA PATRIOT antiterrorism law.

At press time, the PATRIOT Act appeared headed for reauthorization, with the House voting to extend indefinitely all but two of the act's 16 sunset provisions, proposing 10-year extensions on roving wiretaps and searches of library, medical, and other personal records.

Meanwhile, the Senate unanimously passed a bill that would extend to four years, instead of 10 years, the provisions for roving wiretap and records searches. Although the bill falls far short of the key reforms needed to protect civil liberties, the ACLU commends the Senate for taking a bipartisan approach to moderating some of the PATRIOT Act's most intrusive stipulations.

To kick off the reform effort in early June, ACLU National Legislative Communications Director, Phil Gutis, conducted legislative briefings and speaker trainings in San

Francisco and San Jose, attended by hundreds of activists.

Just days later, ACLU National Executive Director Anthony D. Romero spoke at a San Francisco press conference. He listed the sinister consequences of the government's expanded counterterrorism powers, from the FBI's ability to snoop into



GIGI PANDIAN

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NOVEMBER BALLOT INITIATIVE THREATENS TEEN SAFETY: ABORTION FOES ATTEMPT TO CIRCUMVENT COURTS

By Yasmin Anwar

Eight years after the California Supreme Court struck down the state's parental consent law on grounds that it violates a teenager's privacy, an initiative to amend the state Constitution to require doctors to notify parents of pregnant minors before they perform an abortion is on the November ballot.

For the ACLU of Northern California (ACLU-NC), which successfully represented leading health care organizations in the decade-long battle to keep parental consent laws off the books, passage of the measure would be a double whammy, jeopardizing teen safety and reproductive rights.

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BOARD ELECTIONS NOTICE

The ACLU-NC Board of Directors, in accordance with changes adopted in 1996, have 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 2005-2006 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. They may send suggestions for the nominating committee's consideration prior to the September Board meeting (September 8, 2005). Address suggestions to: Nominating Committee, ACLU-NC, 1663 Mission Street, #460, San Francisco, CA 94103. Include your nominee's qualifications and how the nominee may be reached.

CONTINUED ON PAGE 2

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FAREWELL MILA DEGUZMAN: TWO DECADES OF SERVICE

By Sharada Balachandran-Orihuela

After two decades with the ACLU of Northern California (ACLU-NC), Mila DeGuzman has stepped down as administrative director and assistant to Executive Director Dorothy Ehrlich to write a book about Filipina activists.

"It was a most difficult decision, as the ACLU-NC has been my community and my family in the last two decades, but I'm very excited to finally have the opportunity to devote more hours to pursuing my longtime dream," DeGuzman said.

DeGuzman joined the ACLU in 1985 as a political activist whose work focused on gay, immigrant, and women's rights, and continued in that vein throughout her tenure at the organization.

"She elevated our political consciousness about women, about women of color, about immigrants, youth, and about the lesbian, gay, bisexual and transgender (LGBT)



Dorothy Ehrlich presents Mila DeGuzman with a scrapbook of images from DeGuzman's 20 years at the ACLU-NC.

community, and she was determined to ensure that our work for equality and for justice not only remained central to our mission, but was carried out in a way that was sensitive to the needs of those communities," Ehrlich said at a farewell gathering for DeGuzman.

The ACLU-NC administrative staff grew under DeGuzman's watch, and she was recognized for bringing a more holistic approach to managing the office.

After working full time and attending graduate school at night, DeGuzman earned a master of fine arts degree in writing from the University of San Francisco. She is looking forward to using her storytelling skills to showcase exceptional Filipina women activists.

"One of these women is Mila DeGuzman, so let us hope that one of those stories will be autobiographical," Ehrlich said. ■

FRONTLINE ATTORNEY RECEPTION



Joining Dorothy Ehrlich at the podium, Stephen V. Bomse, ACLU-NC general counsel and senior partner with Heller Ehrman LLP (center) encourages summer legal associates to support the ACLU's LGBT rights advocacy at the Second Annual FrontLine Summer Attorney Reception. Matt Coles, Director of the Lesbian Gay Rights/HIV Aids Projects, is pictured at far right. The reception was generously underwritten by Heller Ehrman.

BENEFACTORS DINNER



From left to right: Carina Ryan, Steve Silberstein, and Wayne Jordan celebrate the ACLU-NC's 70th anniversary at the Benefactors Dinner held March 22. The annual event thanks ACLU-NC's major supporters for their partnership in our work. Guests viewed a documentary chronicling the affiliate's history and heard from Legal Director, Alan Schlosser, about future directions.

BOARD ELECTIONS NOTICE CONTINUED FROM PAGE 1

2. They may 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 September 28, 2005 (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.

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*.

REVISED ACLU-NC BY-LAWS

Article VII, 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's 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 VII, Section 4: Recommendations and Nominations by Members of the Union. Any fifteen 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. ■

*The Board of Directors of the ACLU of Northern California revised the By-Laws of the organization in February 1995, to change the timeline for Board election procedures.

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ACLU WINS MAJOR SETTLEMENT FOR UNION CITY STUDENTS

By Stella Richardson

Union City and the New Haven Unified School District can no longer arbitrarily round up and search students as part of a crackdown on gang violence, according to a major settlement won by students at Union City's James Logan High School.

The federal lawsuit was brought by the ACLU of Northern California (ACLU-NC) on behalf of three James Logan High students who were among nearly 60 youths, most of them Latino and Asian, who were rounded up in a police "gang intervention" sweep during the school lunch hour on Feb. 22, 2002.

"THESE NEW POLICIES ARE DESIGNED TO ENSURE THAT SCHOOLS AND THE POLICE WILL RESPOND TO CONCERNS ABOUT GANG PROBLEMS BY FOCUSING ON CONDUCT, NOT BY ERRONEOUSLY LABELING STUDENTS."

-ANN BRICK, ACLU-NC STAFF ATTORNEY

"I really hope that (this settlement) will prevent my younger brother from ever going through what I went through," said Brian Benitez, one of the plaintiffs. "I was questioned, searched and photographed like a criminal when I knew that I had not done anything wrong. I knew that the administrators and police did not have a right to do this."

Police officers from Union City and Fremont herded up the students and sent them into classrooms, separating them according to their race or ethnicity. Officers then searched, interrogated, and photographed the students for a gang database.

"These new policies are designed to ensure that schools and the police will respond to concerns about gang problems by focusing on conduct, not by erroneously labeling students based on their race or ethnicity or on how they dress or on who their friends are. These policies will guarantee that February 22 does not happen again," said ACLU-NC staff attorney Ann Brick.

Among other terms, the agreement with the New Haven Unified School District requires the district to destroy the records, including photographs, collected in the sweep, and prohibits any further photographing of students for a gang database. Meanwhile, Union City must provide a sworn statement that none of the information obtained as a result of the round-up was entered into the Cal-Gang database or into any other gang-related database maintained by a law enforcement agency.

Also, New Haven Unified school officials must notify parents, obtain their consent and allow them to accompany an elementary school student brought in for questioning. High

"I REALLY HOPE THAT MY ACTIONS WILL PREVENT MY YOUNGER BROTHER FROM EVER GOING THROUGH WHAT I WENT THROUGH."
-BRIAN BENITEZ, PLAINTIFF

school students will also be given the opportunity to have a parent or trusted adult present if questioned by authorities on campus.

Moreover, Union City police have agreed not to engage in racial profiling on or off campus. "We applaud both the School District and the City for their responsiveness in adopting a set of policies that address the concerns raised by

this lawsuit," said ACLU cooperating attorney Stacey Wexler of the San Francisco law firm of Kecker and Van Nest.

"These policies create a 'win-win' situation for everyone," added John Hansen, of San Francisco's Nossaman, Guthner, Knox & Elliott, LLP, who also co-counseled the case as an ACLU cooperating attorney.

The lawsuit, *Benitez v. Montoya*, was filed Jan. 30, 2003 in the U.S. District Court of the Northern District of California. ■

ACLU QUESTIONS FBI PRACTICES IN LODI PROBE

By Amy Stulman

In June, the FBI arrested Pakistan-born Umer Hayat and his son Hamid Hayat in Lodi, California, on charges that they lied to FBI investigators. The FBI claims that Hamid Hayat attended a terrorist camp in Pakistan, and that his father financed the trip. While an early affidavit says Hamid Hayat was on a "jihadi mission" in the United States that would target "hospitals and large food stores," a later one dropped that reference, a change that strikes Hayat's attorney, Wazhma Mohaddidi, as "as an odd turnabout."

"WE APPRECIATE AND RESPECT THE NEED OF THE FBI TO CONDUCT INVESTIGATIONS OF POSSIBLE CRIMINAL ACTIVITY. HOWEVER ANY INVESTIGATION NEEDS TO BE DONE IN A WAY THAT RESPECTS INDIVIDUAL'S RIGHTS."

-MARK SCHLOSBERG, ACLU-NC POLICE PRACTICES POLICY DIRECTOR

Specifically, the FBI believes Umer Hayat gave his son \$100 a month to attend a jihadist camp in Pakistan in 2003 and 2004.

After extensive interrogation, Hamid Hayat volunteered to take a lie detector test, which he failed. He eventually confessed to attending the camp.

Spurred by Hayat's alleged link to a terrorist organization, FBI agents went on to interrogate more than a dozen young Muslim men in Lodi, a Central Valley community

that is home to about 2,500 Pakistani Americans. The agency carried out an overzealous campaign, even photographing attorneys from the Lawyers' Committee for Civil Rights (LCCR) and the ACLU of Northern California (ACLU-NC). Agents also attended a "Know Your Rights" event sponsored by the Council on American-Islamic Relations (CAIR) in Stockton on June 11, 2005.

In response to concerns about the Lodi investigation, the ACLU-NC and LCCR have filed a Freedom of Information Act request seeking information showing that the FBI and U.S. Attorney discouraged people from exercising their right to an attorney, as well as photographs taken of lawyers while they were conducting their fact-finding investigation.

"We appreciate and respect the need of the FBI to conduct investigations of possible criminal activity," said Mark Schlosberg, police practices policy director for the ACLU-NC. "However any investigation needs to be done in a way that respects individual's rights." ■



AMONG THE ACLU'S CONCERNS ABOUT THE LODI INVESTIGATION:

DISCOURAGING INDIVIDUALS FROM EXERCISING THEIR RIGHT TO AN ATTORNEY.

At a CAIR meeting, U.S. Attorney McGregor Scott implied that witnesses do not have the right to an attorney. In fact, while witnesses are not entitled to a court-appointed attorney, anyone questioned by the FBI has the right to legal counsel.

DETENTION OF AN INDIVIDUAL WITHOUT PROVIDING MIRANDA WARNINGS.

In at least one instance, an individual was stopped, searched and interrogated over a three-hour period without being informed of his right to an attorney.

FAILURE TO ALLOW ACCESS TO AN ATTORNEY. In at least one instance, the FBI failed to notify a detainee that his attorney tried to contact him.

PRESSURING INDIVIDUALS TO SUBMIT TO QUESTIONING EVEN AFTER THEY ASKED FOR AN ATTORNEY.

FBI agents pressured detainees to respond to questioning even after they declined to cooperate. In one case, they told a detainee he would be arrested if he even jaywalked.

ADMINISTERING POLYGRAPH EXAMINATIONS IN ENGLISH TO PEOPLE WHOSE FIRST LANGUAGE IS NOT ENGLISH.

In at least one instance, the FBI asked a detainee to submit to a polygraph examination in English despite that fact that he was not fluent in the language.

YOUTH RIGHTS SUMMIT INSPIRES FLEDGLING ACTIVISTS

By Salma Habib, Junior at Clayton Valley High School (Concord, California)

At the ACLU Youth Rights conference at UC Berkeley's MLK Student Union in April, one thing was clear: students were psyched. More than 600 students from around northern California gathered from various schools and diverse backgrounds to discuss topics ranging from students rights to affirmative action and civil liberties.

Students hailed from Davis, Vallejo, Oakland, San Jose, Antioch, Concord, Elk Grove, Martinez, Union City, Santa Rosa, Hayward, El Cerrito, and Albany, among other places.

High school students in the ACLU-NC's Friedman Education Project Youth Activist Committee (YAC) had put in months of effort to organize the event, with the purpose of bringing together high school students to share their experiences and perspectives on issues that affect their lives, and to develop strategies for action.

Kicking off the event were electrifying performances by

Youthspeaks poets. Youthspeaks is an organization that helps young people to use their voices while building literacy and critical thinking. Other young speakers, such as UCLA Law School Student Shaffy Moel, discussed how her activism during high school ignited her passion for human rights and immigration law.

Student speakers affiliated with the Friedman Education Project YAC described the impact their activism has had in their local schools and communities, to promote racial justice, freedom of expression, and transgender rights for students, among other issues.

A breakdance performance by "Sisterz of the Underground," an all-female hip hop collective had the audience utterly captivated, prompting students to dance. This energy carried into the range of morning and afternoon workshops that brought out critical information and sparked animated discussions about military recruitment and the draft, unequal education in California, the juvenile justice system, reproductive rights, and how to lobby political representatives.



Students gather around a Sisterz of the Underground performance.

"I've helped to organize several conferences with the YAC, and I thought that this was one of the most successful ones we've ever had. The entertainment was amazing, and the workshops

ran very smoothly. I only heard positive feedback from the students, and overall I think it was a fabulous experience for everyone involved," said Amanda Gelender, a senior at Castro Valley High School.

Conference participants said the workshops were truly informative because they allowed students to use their own experiences to learn from one another and teach.

When the morning workshops ended, students headed for the Youthspeaks poetry and writing workshops and breakdancing workshops by Sisterz of the Underground that were offered during the lunch break.

"The youth conference was one of the most powerful experiences I've been a part of. Looking at the crowd as I spoke, I was truly inspired to see all the people who wanted to make a difference; it was an escape from a somewhat depressing world," said Riley Evans, senior at Davis Senior High in Davis, California.

Friedman Education Project YAC members have been working for quite some time to develop workshops that would inform students about issues that do have an impact upon their lives directly or would impact them later, such as military recruitment and the potential implementation of the draft. Students now are able to take this information and use it in different ways to promote change within their communities.

"I'm glad to know that I've been able to work with students



David Cruz, formerly involved with the ACLU-NC's Friedman Education Project in high school and now a U.C. Berkeley student, speaks to the crowd.

on topics that are significant to all our lives in very different ways, and hope I can continue working with the ACLU in these type of events," said Monica Vesga of Northgate High School. ■

"CHANGE IS POSSIBLE—IT MAY BE SMALL AND INCREMENTAL, BUT IT IS POSSIBLE."

**—KIRAN SAVAGE-SANGWAN, AGE 17
(JUNIOR, DAVIS HIGH SCHOOL, DAVIS, CA)**

STUDENT HONORED FOR CIVIL LIBERTIES WORK

By Eveline Chang

Amanda Gelender, a recent graduate of Castro Valley High School in Castro Valley, California, is one of ten high school seniors in the nation to be honored for their commitment to civil liberties by the National ACLU.

Gelender has been a passionate and dedicated leader with the Friedman Education Project's Youth Activist Committee (YAC) of the ACLU of Northern California (ACLU-NC). Her activism extends far beyond that program.

Gelender participated in the 2003 summer program "The War on Drugs: A Field Investigation for and by Youth" with the Youth Activist Committee. After the trip Gelender immediately put her knowledge to action. She rallied her peers at school and started a high school chapter of Students for a

Sensible Drug policy.



Amanda Gelender

Later, she went on to testify before the California State Congress on behalf of the Drug Policy Alliance to support a bill that would halt random drug testing in schools. Through her involvement in the YAC, Gelender has organized and led workshops on numerous topics, from sexism to student rights to the USA PATRIOT Act.

Not only has Gelender proved to be a dedicated activist, but she also cares deeply about these issues and those impacted, and believes that educating her peers is a powerful means toward creating a more just society for all. Gelender attended this year's ACLU Biennial Conference in New Orleans as an alternate delegate. She is continuing her activism with the ACLU this summer as an intern for the Death Penalty Project, and she will attend Stanford University this fall. ■

SHARE YOUR MILITARY RECRUITMENT STORIES WITH THE ACLU

In light of recent news reports of aggressive and sometimes abusive recruiting tactics employed by the U.S. military, the Friedman Education Project is interested in hearing about students', parents', and teachers' experiences with military recruiters, negative or positive, throughout Northern California.

Please contact Friedman Project Youth Advocate Danielle Silk at (415) 621-2493 x368, with details and contact information for follow-ups.

Below are some examples of aggressive or questionable recruiting tactics:

Houston, Texas: Recruiters threatened to arrest a student if he didn't report to a recruiting station. Sgt. Thomas Kelt left this message on that young man's cell phone: "Hey Chris, this is Sgt. Kelt with the Army, man, I think we got disconnected. Okay, I know you were on your cell probably and just had a bad connection or something like that. I know you didn't hang up on me. Anyway, by federal law you got an appointment with me at 2 o'clock this afternoon at Greenspoint Mall, okay? That's the Greenspoint Mall Army Recruiting Station at 2 o'clock. You fail to appear and we'll have a warrant. Okay? So give me a call back." (KHOU-TV, May 11, 2005)

Ohio: Recruiters in Ohio signed up a mentally ill man even after the man's parents informed the recruiters of his recent three-week stay in a psychiatric ward. In the same New York Times article, an anonymous recruiter admits to "bending or breaking enlistment rules for months." (New York Times, May 3, 2005)

Denver, Colo.: A high school journalist recorded a recruitment officer instructing him how to falsify a high school diploma and pass a drug test with marijuana in his system. (CBS News, May 2, 2005)

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

COMPASSION AND CHOICE AT LIFE'S END: BILL MOVES THROUGH CALIFORNIA LEGISLATURE

By Vivek Malhotra

California could become the second state in the nation to permit mentally competent, terminally-ill patients with up to six months to live to hasten their own death, if the state approves the recently introduced California Compassionate Choices Act.

Assembly Bill 654's co-authors are Assembly members Patty Berg (D-Eureka) and Lloyd Levine (D-Van Nuys). Its main sponsor is Compassion & Choices, a leading advocate of improved palliative care and expanded options for the dying.

AB 654 is modeled after Oregon's eight year-old Death With Dignity Act, first approved by that state's voters through a ballot initiative in 1994. The bill would allow terminally ill patients to request and obtain a lethal medical prescription from their doctors.

Like Oregon's law, the bill contains numerous safeguards to protect a patient from undue influence or abuse. For example, to obtain a prescription, a patient must make both oral and written requests, which must be reviewed by at least two doctors and, if necessary, a mental health professional. The medicine can only be administered by the patient, not a physician, family member, or friend.

Despite opponents' objections that the measure would lead to euthanasia and disproportionately affect the uninsured, Oregon's experience has been just the opposite. The Oregon Health Department's seventh annual report shows that only 208 patients took the lethal medication in Oregon from 1997 to 2004. The three most commonly cited reasons for requesting the lethal prescription were loss of autonomy, a decreasing ability to participate in the activities that made life enjoyable, and a loss of dignity.

Not surprisingly, Oregon's law has been challenged by the Bush Administration, with the U.S. Supreme Court set to hear

the case, *Gonzales v. Oregon*, in the next session. In previous cases, the high court has declined to recognize a federal constitutional right of terminally ill patients to obtain a physician's assistance in ending their lives, but it has suggested that this is a matter that should be left to each state to decide.

A recent field poll found that 70 percent of Californians would want the option to obtain a medical prescription to end their lives if they were battling a terminal illness. Support for the bill cuts across racial, ethnic, and religious lines.

TERMINALLY ILL PATIENTS SHOULD BE PROVIDED THE COMFORT AND COMPASSION TO LIVE THEIR FINAL DAYS WITH DIGNITY... THE CALIFORNIA COMPASSIONATE CHOICES ACT ACKNOWLEDGES OUR INHERENT RIGHT TO MAKE OUR OWN DECISIONS.

ACLU members throughout California have sent letters, e-mails, and postcards to their state representatives, urging them to support the bill. "The ACLU believes that terminally ill patients should be provided the comfort and compassion to live their final days with dignity and peace," wrote the three ACLU California affiliates in a joint letter to ACLU members.

Meanwhile, opposition to the bill, led by the Catholic Church hierarchy, has been



substantial. As the debate rages in Sacramento and elsewhere in California, the ACLU will continue to advocate in favor of the individual's choice to end life on his or her own terms. ■

AB 654 passed two major committees in the Legislature to make it all the way to the Assembly floor. After discussing the legislation with their colleagues, the authors believed that the vote count on the measure was too close to call, and decided to wait before taking it up for an official vote to give some undecided members more time to weigh the issue. The bill is now on hold until next year. AB 651, a bill already sitting in the state Senate, has been amended so that it is now identical to AB 654, and can be taken up by that house before going back to the Assembly for a concurrence vote, but not before next year.

SACRAMENTO REPORT

By Vivek Malhotra

As the unforgiving summer sun bears down on Sacramento, the ACLU's legislative team enters the throes of the 2005 legislative year. It is a critical time for bills in the state Capitol, with the July deadline for legislation to clear the policy committees.

Since the Legislature must send bills to the Governor's desk for his signature or veto by early September, your support is crucial to advance the ACLU's efforts to protect civil liberties. Take action at www.aclunc.org/takeaction.html.

MARRIAGE EQUALITY GAINS NEW LIFE IN THE STATE SENATE

In the final days before the summer break, the Legislature once again took up the issue of marriage equality. **AB 849**, a new vehicle for the Religious Freedom and Civil Marriage Protection Act, overcame a significant hurdle when it cleared the Senate Judiciary Committee July 12, on a 5-2 majority vote. Against stiff opposition from conservative religious groups, the ACLU joined Equality California and a host of other civil rights and civil liberties organizations at the legislative hearing to voice its strong support for the proposal.

The bill is identical to a measure authorizing same-sex marriages in California that barely failed passage on the Assembly floor just weeks earlier. Following the nar-

row defeat of that bill, AB 19, Assembly Member Mark Leno (D-San Francisco) and legislative allies decided to press forward with the legislation in the state Senate, where prospects for the bill seem brighter. Using a relatively common legislative maneuver called a "gut and amend," proponents took a bill that had already made it over to the Senate, and amended it with the language of AB 19.

AB 849 now moves on to the Senate Appropriations Committee, where it is expected to receive a warm reception from Committee Chair and strong marriage equality supporter, Senator Carole Migden (D-San Francisco). From there, it would move on to the Senate floor by early September, where it must garner at least 21 votes. If the Senate side strategy is successful, the bill would still have to return to the Assembly for a concurrence vote by that house before it could reach Governor Schwarzenegger's desk for his signature or veto in the Fall.

PRIVACY AND RADIO FREQUENCY IDENTIFICATION —Passed by the Senate and Moving in the Assembly

SB 682 (Simitian-D) would restrict the use of embedded chips, called Radio Frequency Identification tags (RFIDs), in commonly-used government-issued identity documents, including driver's licenses, state identification cards, student identification, and library cards. Through radio signals, RFIDs can transmit the private

information of individuals, without their knowledge and to whomever has access to a RFID scanner, making individuals vulnerable to identity theft and tracking. The ACLU wants to prevent a rush to use this new technology without first establishing a rational policy to protect individual privacy and security.

SB 682 passed the Senate with bi-partisan support, and has already passed out of the Assembly Judiciary Committee. We expect a vote by the full Assembly by the beginning of September.

REDUCING FALSE CONFESSIONS —Passed by the Senate and Moving in the Assembly

SB 171 (Alquist-D) would require electronic recordings of custodial interrogations for those accused of homicides and other violent crimes since recent studies have found high incidences of false confessions among people, including death row inmates, later exonerated by DNA and other evidence. By decreasing the likelihood of false confessions, the bill protects the rights of both the accused and law enforcement, and brings accountability and transparency to police investigations.

SB 171 passed the Senate with bi-partisan support, and is pending in the Assembly Appropriations Committee, where it must pass, before moving to the floor for a vote by the full Assembly no later than early September. ■

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

FRESNO STUDENTS WANT ANSWERS ABOUT UNDERCOVER POLICE

By Julia Daniels

On Nov. 10, 2004, five dozen Fresno State University students, members of the Campus Peace and Liberties Coalition (CPLC), settled down to hear a lecture on veganism by animal rights advocate Gary Yourofsky. Little did they know then that six undercover police officers were also attending the lecture.

Today, the students still don't fully understand why the police infiltrated their campus lecture. The ACLU of Northern California (ACLU-NC) is on the case.

"CALIFORNIA HAS A CONSTITUTIONAL RIGHT TO PRIVACY. IT WAS INCORPORATED INTO THE CONSTITUTION BY THE VOTERS IN 1972 TO PREVENT EXTREME GOVERNMENT SNOOPING."

-MARK SCHLOSBERG, ACLU-NC POLICE PRACTICES POLICY DIRECTOR

the university to re-examine its policies regarding student safety and privacy on campus.

In response to pressure from the ACLU-NC and university students, Fresno State University President John Welty has decided to create a task force this fall to explore the school's policy on the presence of law enforcement on campus.

Fresno State students first caught wind of the undercover police presence at the lecture during a Dec. 10, 2004

meeting with university officials. "Someone mentioned that there were no law enforcement officers at the lecture and the police chief said, 'How do you know that there weren't?' That was the first indication that there were undercover officers," said Schlosberg. The suspicion was confirmed at a Dec. 17 meeting.

Objecting to the undercover police presence, Fresno State students staged a hunger strike outside the university president's office the night of April 27, the same day the ACLU-NC wrote to Welty asking that he explain the university administration's role in the undercover police surveillance.

"It took us going on a hunger strike to get some recognition," said Ruth Obel-Jorgensen, a Fresno State student and president of the CPCLC who has been leading the effort to get answers from police and the university.

"Their demands were that the school not spy on students and that the school give them information about what happened," said Schlosberg.

Fresno State students hope to learn more about the university's policy regarding students' right to privacy.

"Is this going to be the norm now?" asked Obel-Jorgensen. "Now we'll never know who's watching us?"

Schlosberg says that police officers in California have to be especially careful to respect citizens' right to privacy and protection from government probing. "California has a constitutional right to privacy. It was incorporated in to the Constitution by the voters in 1972 to prevent extreme government snooping." The 1972 amendment to the Constitution sets California apart from other states, says Schlosberg.

While Fresno State University police claim that they sent undercover officers to the lecture to protect the students, Schlosberg argues that "if the police were going to protect the group, why not send uniformed officers and contact the group to begin with?"

The ACLU-NC has sent a Public Records Act Request to the Fresno County Sheriff's Department and to the university asking that the agencies release all documents relating to the lecture. As a result of that request, the ACLU has learned that the Sheriff's Department sent undercover police "at the request of the Fresno State Chief of Police." The students have learned that of the six undercover police officers present at the lecture, three were from the Fresno State University police department and three were from the Fresno Sheriff's Department.

The ACLU also filed a Freedom of Information Act request, in hopes that if the federal government was involved in infiltrating the lecture, the FOIA request would shed light on the situation. As of press time, the FOIA request had not generated any response.

Still, the inquiry by student activists and the ACLU-NC has yielded impressive results. In early May, Welty wrote a letter to Obel-Jorgensen, in which he promised that "police will not conduct illegal surveillance," and said that he would "convene a task force next fall to review procedures related to policing issues on campus, especially with a view to events sponsored by public groups and student organizations."

Also, Welty authored a letter to the campus Chief of Police David Huerta, and director of public safety, David Moll, stating in no uncertain terms that, "University police should not conduct surveillance activities at university events unless they are required by law. We should always make the event organizer aware that officers will be present."

Schlosberg says that the ACLU is pleased with Welty's decision to explore new school policies regarding student privacy and campus security. "We're basically happy with what Welty has done on the policy front in terms of making instructions for the police chief, the director of public safety and in setting up the task force."

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Mark Schlosberg speaking at a Fresno State rally.



Students at a Fresno State rally in favor of free speech.

CALIFORNIA'S CONSTITUTIONAL RIGHT TO PRIVACY PROHIBITS UNREGULATED SURVEILLANCE

In 1972, when Californians voted to incorporate the right to privacy into the state constitution, it was against the backdrop of a growing public concern about government intrusions into personal autonomy and liberty. The era in which the constitutional amendment was approved was marked in many ways by unchecked law enforcement and intelligence abuses - including the infiltration of the civil rights and anti-war movements. When California voters approved the constitutional amendment, it was to take a stand against the "proliferation of government snooping and data collecting [that] is threatening to destroy our traditional freedoms."

White v. Davis (1975), the first California Supreme Court case interpreting the newly-minted right to privacy, came just three years later and arose in the university context. There, a professor brought suit against the police department for spying and monitoring that is very similar to the pervasive use of undercover officers described by Public Safety Director Moll. The case involved allegations regarding undercover police officers gathering information in classrooms and association meetings at the University of California at Los Angeles. In its decision, the Supreme Court made clear that the right to privacy prohibits police surveillance of First Amendment protected activity in the absence of reasonable suspicion of a crime. ■

However, Schlosberg maintains that the students and ACLU still "need the information" about the Police Department's activities. "Hopefully we'll get it," Schlosberg says.

The infiltration of the Yourofsky lecture comes on the coattails of a privacy violation in which Peace Fresno was infiltrated by a member of the Fresno Sheriff's Department's anti-terrorism unit in 2002.

In that incident, which was publicized in Michael Moore's "Fahrenheit 9/11," the true identity of agent Aaron Kilner, who joined Peace Fresno as "Aaron Stokes," was not revealed until his Aug. 31, 2003 death. When Peace Fresno and the ACLU-NC asked the reason for the investigation of Peace Fresno, Sheriff Richard Pierce left many questions unanswered.

An apparent pattern of surveillance in Fresno is of concern to the ACLU-NC, and has spurred an investigation by California Attorney General Bill Lockyer.

However, Schlosberg remains optimistic that the ACLU and students' negotiations will lead to greater transparency in the police community and to a greater respect for civilian privacy. ■

NATIONAL GUARD SPIES ON PROTESTING MOMS AND GRANDMAS

By Amy Stulman

Three dozen representatives from Code Pink, Gold Star Families for Peace and Raging Grannies gathered on the steps of the state Capitol to protest the Iraq War in May. Some protesters had lost a son or daughter in the conflict. Their message: “Bring the troops home now!” The protest ran smoothly and concluded peacefully. No one suspected there was a fourth party attending: the California National Guard’s Intelligence Unit.

Emails obtained by the *San Jose Mercury News* revealed that a new program in the Guard, called the Intelligence Unit, spied on the May 8 protest. In the email to Guard Col. Jeff Davis, Col. John Moorman, chief of staff, wrote: “Sir, Information you wanted on Sunday’s demonstration at the Capitol.” Davis replied, “Thanks. Forwarding same to our Intell. folks who continue to monitor.”

The *Mercury* reported that the California National Guard created the Intelligence Unit to track terrorist activities. It now seems that the Guard is using “terrorism” as a guise to spy on whoever it wants. Fortunately, Californians in 1972 adopted an initiative protecting against government monitoring and surveillance in the absence of reasonable suspicion of criminal activity. It was confirmed by *White v. Davis*, the California Supreme Court case interpreting the state Constitution’s right to privacy. The National Guard’s action on May 8 is a violation of *White*.

On behalf of its more than 90,000 Californian members, the ACLU wrote to Gov. Arnold Schwarzenegger and Brigadier Gen. John Alexander about the spying incident. The letter said, “There is nothing un-American or terrorism-related about the time-honored tradition of peaceful protest against military action. Such protests unequivocally are protected speech under the United States and California Constitutions. To monitor anti-war protests simply because of the message the demonstrators seek to

convey violates the spirit of the First Amendment and the country’s long tradition of political dissent.”

The letter recommends disbanding the Intelligence Unit for two reasons: The program is not fulfilling its expressed purpose. And, even if it strictly monitored terrorist-related activities, the program would seem to duplicate the tax-funded California Anti-Terrorism Information Center (CATIC), an organization whose existence is a threat enough to civil liberties. If the Guard will not disband the Intelligence Unit, the ACLU insists that the following regulations be strictly imposed:

- Prohibit the monitoring and collection of information on individuals and organization engaging in First Amendment protected activity.
- Prohibit dissemination of information already collected to other law enforcement agencies.
- Write definitions and guidelines that make it clear that protest activity—including protest activity involving civil disobedience—is not terrorism.
- Regulate file storage and data retention to ensure regular purging of any databases and storage systems.

TO MONITOR ANTI-WAR PROTESTS SIMPLY BECAUSE OF THE MESSAGE THE DEMONSTRATORS SEEK TO CONVEY VIOLATES THE SPIRIT OF THE FIRST AMENDMENT AND THE COUNTRY’S LONG TRADITION OF POLITICAL DISSENT.

The ACLU also made a formal request, under the California Public Records Act, for all documents or correspondence that pertains to the May 8 demonstration and all training materials that members of the Guard, especially the Intelligence Unit, receive, as well as those that inform on California’s constitutional right to privacy.

Perhaps most disturbing about the May 8 spying operation is the Guard’s explanation: “Who knows who could infiltrate that type of group and try to stir something up?” spokesman Lt. Col. Stan Zezotarski warned in reference to the protest, “After all, we live in an age of terrorism.”

We do, indeed, live in an age of terrorism, and what could be more terrifying than a special Guard unit threatening the very liberties that the rest of the military is fighting to protect: the right to peacefully assemble, the right to petition our government, and the right of ordinary citizens to keep their personal information to themselves? ■

PATRIOT ACT STIRS CONCERN CONTINUED FROM PAGE 1

library, medical and financial records without a warrant or the suspect’s consent, to the alleged abuse of terrorism suspects at Guantanamo Bay Prison and other detention facilities.

“The idea that the government could be able to seize these records from ordinary Americans going about their everyday lives, without any judicial review, is what troubles us most,” Romero said. “You never concentrate too much power in one branch of the government. That’s the reason we have ... checks and balances and three branches.”

Romero warned that the government’s definition of terrorism under the PATRIOT Act is too broad and ambiguous and could be used to quash legitimate forms of protest and debate.

For these and other reasons, the ACLU and other civil liberties and rights advocates have been pressing

SEVEN STATES AND MORE THAN 380 CITIES AND COMMUNITIES AROUND THE COUNTRY, REPRESENTING MORE THAN 60 MILLION PEOPLE, HAVE PASSED RESOLUTIONS CALLING FOR REFORM OF THE LAW. CALIFORNIA ALONE HAS SEEN THE PASSAGE OF 64 RESOLUTIONS OPPOSING THE PATRIOT ACT.

for the most egregious sections of the PATRIOT Act to sunset or expire on December 31, as they were intended to. However, some members of Congress have been pushing legislation that would renew and even expand government powers under the law.



ACLU-NC summer interns helping with the campaign over the Fourth of July weekend.

In response, ACLU members and allied organizations across northern California faxed, emailed, phoned, visited and wrote letters to their senators and representatives. Opinion editorials were published and members of the public were trained to advocate for PATRIOT Act reform.

The campaign hit the streets during the Fourth of July weekend when ACLU interns donned sandwich boards bearing such slogans as “My library book, *The Joy of Sex*, is two weeks overdue,” and “I took Viagra this morning.”

The slogans referred to the invasion of privacy that can easily occur under the PATRIOT Act. “We’re out here ... to inform people of the atrocity and to urge Congress to remember what makes our country so unique and great,” said Nikhil Dutta, an ACLU-NC

intern who participated in the sandwich board demonstrations.

The protests, which were covered by major media networks and the ethnic press, took place in San Francisco, Sacramento, Fresno and Napa, among other northern California cities. Participants paraded at the Golden Gate Bridge, Bay Bridge and Ferry Building. They urged the public to ask their Congressional representatives to help bring the PATRIOT Act in line with the U.S. Constitution.

The groundswell in opposition to the PATRIOT Act has been formidable. Seven states and more than 380 cities and communities around the country, representing more than 60 million people, have passed resolutions calling for reform of the law. California alone has seen the passage of 64 resolutions opposing the PATRIOT Act. ■



DEFENSE DEPARTMENT MUST HAND OVER TORTURE PHOTOS TO ACLU

By Stella Richardson

In response to an ACLU lawsuit requesting torture documents under the Freedom of Information Act, a federal judge has ordered the U.S. Defense Department to hand over 144 photographs and four movies depicting detainee abuse by U.S. troops at Abu Ghraib prison in Iraq. The order was issued on June 1 by U.S. District Judge Alvin K. Hellerstein in New York.

“These images may be ugly and shocking, but they depict how the torture was more than the actions of a few rogue soldiers,” said Anthony D. Romero, executive director of the ACLU. “The American public deserves to know what is being done in our name. Perhaps after these and other photos are forced into the light of day, the government will at long last appoint an outside special counsel to investigate the torture and abuse of detainees.”

The most recent court order is in response to a FOIA lawsuit, filed June 2, 2004, that generated the release of more than 35,000 pages of government documents on the treatment of detainees by the U.S. in Iraq, Afghanistan and Guantanamo Bay. The lawsuit was filed by the ACLU, the New York Civil Liberties Union and the Center for Constitutional Rights.

On May 26, the court reviewed, in camera, eight documents containing photographs and images of detainees at Abu Ghraib and ordered the government to reprocess and redact the photographs and movies provided by Sergeant Joseph Darby to the Army’s Criminal Investigation Command.

Attorneys for the government had argued that turning over visual evidence of abuse would violate the United States’ obligations under the Geneva Conventions, but the ACLU argued that obscuring the faces and identifiable features of the detainees would erase any potential privacy concerns.

The court agreed.

“It is indeed ironic that the government invoked the Geneva Conventions as a basis for withholding these photographs,”

“IT IS INDEED IRONIC THAT THE GOVERNMENT INVOKED THE GENEVA CONVENTIONS AS A BASIS FOR WITHHOLDING THESE PHOTOGRAPHS. HAD THE GOVERNMENT GENUINELY ADHERED TO ITS OBLIGATIONS UNDER THESE CONVENTIONS, IT COULD HAVE PREVENTED THE WIDESPREAD ABUSE OF DETAINEES HELD IN ITS CUSTODY.”

**—AMRIT SING,
ACLU STAFF ATTORNEY**

said Amrit Sing, a staff attorney at the ACLU. “Had the government genuinely adhered to its obligations under these Conventions, it could have prevented the widespread abuse of detainees held in its custody.” The ACLU expects redacted versions of the photographs and movies to be released in the coming weeks.

In April, the ACLU sent a delegation to the United Nations Commission on Human Rights 61st meeting in Geneva to urge the

international body to take immediate action to address the abuse and torture of prisoners in the U.S.-controlled detention centers. The ACLU also brought the issues of racial profiling and the exploitation of migrant domestic workers to the commission’s attention.

“Nearly a year after the Abu Ghraib torture and abuses came to light, serious violations of human rights continue to be committed in U.S. controlled detention centers around the globe,” said Jamil Dakwar, a senior human rights attorney with the ACLU. “No country is above the law, and the United States should not be permitted to violate fundamental human rights in the name of national security.”

The ACLU delegation made several urgent recommendations to the commission including a request that the U.S. government permit human rights experts and monitors to visit, at the earliest possible date, those persons arrested, detained or tried on grounds of alleged terrorism or other violations in Iraq, Afghanistan, the Guantanamo Bay military base and elsewhere. In addition, the delegation urged other nations to call upon the U.S. to take effective measures to prevent torture and other cruel, inhuman, or degrading treatment of detainees in U.S. facilities; to ensure that all violations are thoroughly and impartially investigated; and to hold those officials who encouraged or sanctioned such actions accountable. ■

ACLU CONCERNED ABOUT O’CONNOR REPLACEMENT

By Yasmin Anwar

From reproductive rights to expanded police powers in the war on terror, much is at stake in the battle over who will replace outgoing Supreme Court Justice Sandra Day O’Connor, the swing vote in numerous controversial decisions.

President Bush has nominated appellate Judge John G. Roberts, Jr., a onetime White House lawyer who has accumulated a slim record as a judge. However, as deputy solicitor general in the George H.W. Bush administration, Roberts signed a brief on abortion financing that argued in a footnote that *Roe v. Wade*, which established a constitutional right to abortion, should be overturned because it “finds no support in the text, structure or history of the Constitution.”

For these and other reasons, the national American Civil Liberties Board is considering taking a position if it determines that the nominee’s judicial philosophy is “fundamentally hostile to civil liberties.”

“Justice O’Connor fully earned her reputation as a centrist; she was a conscientious jurist and, in a number of key cases, stood up for individual rights and against a radically conservative vision of the Constitution,” said Steven Shapiro, ACLU Legal Director.

The national board has voted to oppose only two nominees in its history: Justice William Rehnquist and former solicitor general and law professor Robert Bork.

O’Connor has provided the fifth vote in a number of high-stakes cases. The following are key 5-4 decisions that could be overturned if her replacement adheres to a conservative agenda favored by the Bush administration:

■ *Grutter v. Bollinger* (2003) affirmed the right of state colleges and universities to use affirmative action in their admissions policies to increase educational opportunities for minorities and promote racial diversity on campus.

■ *Alaska Department of Environmental Conservation v. EPA* (2004) said the Environmental Protection Agency could step in and take action to reduce air pollution under the Clean Air Act when a state conservation agency fails to act.

■ *Rush Prudential HMO, Inc. v. Moran* (2002) upheld state laws giving people the right to a second doctor’s opinion if their HMOs tried to deny them treatment.

■ *Planned Parenthood v. Casey* (1992) broke with Chief Justice Rehnquist and other opponents of a woman’s right to choose as part of a 5-4 majority in affirming *Roe v. Wade*.

■ *Hunt v. Cromartie* (2001) affirmed the right of state legislators to take race into account to secure minority voting rights in redistricting.

■ *Tennessee v. Lane* (2004) upheld the constitutionality of Title II of the Americans with Disabilities Act and required that courtrooms be physically accessible to the disabled.

■ *Zadvydas v. Davis* (2001) told the government it could not indefinitely detain an immigrant who was under final order of removal even if no other country would accept that person.

■ *Brentwood Academy v. Tennessee Secondary School Athletic Association* (2001) affirmed that civil rights laws apply to associations regulating interscholastic sports.

■ *Lee v. Weisman* (1992) continued the tradition of government neutrality toward religion, finding that government-sponsored prayer is unacceptable at graduations and other public school events.

■ *Brown v. Legal Foundation of Washington* (2003) maintained a key source of funding for legal assistance for the poor.

■ *Federal Election Commission v. Colorado Republican Federal Campaign Committee* (2001) upheld laws that limit political party expenditures that are coordinated with a candidate and seek to evade campaign contribution limits.

■ *McConnell v. Federal Election Commission* (2003) upheld most of the landmark McCain-Feingold campaign finance law, including its ban on political parties’ use of unlimited soft money contributions.

■ *McCreary County v. ACLU of Kentucky* (2005) upheld the principle of government neutrality towards religion and ruled unconstitutional Ten Commandments displays in several courthouses. Some of the strongest language came from Justice Sandra Day O’Connor’s concurrence with the 5-4 majority, in which she said: “Those who would renegotiate the boundaries between church and state must therefore answer a difficult question: Why would we trade a system that has served us so well for one that has served others so poorly?”

If you’re concerned about Justice O’Connor’s replacement, look for upcoming ways to take action on the national ACLU website at www.aclu.org. Also, let your Congressional representative know about your concerns. ■

KEEP AMERICA SAFE AND FREE. GET CAMPAIGN INFORMATION AND UPDATES AT WWW.ACLUNC.ORG

DEER VALLEY HIGH STUDENTS WIN RIGHT TO RALLY

By Stella Richardson

When a group of high school students return to school this fall, they will be able to hold a peace rally and express their views on the war in Iraq. Deer Valley High School's Students for Peace and Justice (SFPJ) won the right to hold a rally under an agreement reached July 12 with the Antioch Unified School District. The ACLU of Northern California (ACLU-NC) represented the students in their talks with the school district.

The students asked permission in February to hold a rally, and planned to include a folk singer, student speeches, leaflets, banners and information about the war in Iraq and other social justice issues. Although students at Deer Valley High commonly use the school's sound system for campus activities, and the school has even allowed the U.S. military and radio stations to play music on campus, the principal denied the students' request. The principal expressed concern that the anti-war message was disrespectful of the military and might offend people.

"The U.S. Supreme Court has recognized that high schools are important forums for free speech and political debate," said Julia Harumi Mass, staff attorney with the ACLU-NC. "As students prepare to participate in society as adults, schools should encourage independent thought and dialogue about current events, even controversial ones. School administrators certainly cannot silence students because they disagree with the students' message."

With the assistance of the club's advisor, the students submitted a revised plan for a rally on March 17, and the principal initially agreed to allow the rally to go forward. However, the principal then restricted the students to a rally without the use of the school's sound system, and the day

before the planned rally, withdrew permission for the event altogether. The school also placed the two primary organizers of the rally on two-day on-campus suspensions for allegedly harassing a military recruiter at the school, starting the day of the planned rally.

"IF WE PROHIBIT FORUM AND DEBATE WITHIN OUR PUBLIC SCHOOLS, OUR DEMOCRATIC IDEALS WILL BECOME MEANINGLESS."

-PATRICK EDELBACHER, ONE OF THE TWO STUDENTS SUSPENDED

Patrick Edelbacher, one of the two students suspended, said: "If we prohibit forum and debate within our public schools, our democratic ideals will become meaningless. In a time of war and low military recruiting numbers, students are faced with life altering choices and deserve the information needed to make educated decisions. That is why it is so important that all students have the opportunity to hold rallies like this."

Under the agreement, the students will be allowed to hold a peace rally during all three lunch periods on campus in September; use the school's sound system for recorded music and speeches; display banners and posters as part of the event; and distribute literature at

the rally. The students' speeches will not be subject to any prior review by the school administration.

The school district also agreed to remove the suspensions from the students' records and to rescind a district-wide policy that requires students to get prior approval for literature they pass out on school campuses. ■

STUDENT ACTIVISTS AT DEER VALLEY HIGH SCHOOL

By Amy Stulman

PATRICK EDELBACHER is no novice activist. In addition to co-founding Students for Peace and Justice (SFPJ), he started the Gay Straight Alliance and was president of the campus Environmental Club. He plans to attend Tacoma Community College in Washington in the fall to study philosophy and history.

AMIR SARKESHNIK is a co-founder of SFPJ and a member of San Francisco's Act Now to Stop War and End Racism (ANSWER). He hopes to study international relations and biology and later attend medical school.

DOMINIC RIPOLI, who will be a senior next year, plans to expand Students for Peace and Justice. He says he wants to "encourage people to talk to each other and educate each other about their opinions."

BRIAN WERTER became involved in Students for Peace and Justice during his junior year due to his interest in politics and hopes to use his education to make a difference in the world. "I'm sure I'll be politically active when I'm older," he said.

ASA EDELBACHER became involved in Students for Peace and Justice through his brother, Patrick. "I went to the meetings and listened and I learned a lot."

JOSÉ MUÑOZ graduated from DVHS in June and plans to attend San Jose State University in the fall. He had planned to give a speech at the rally advocating for a nonviolent revolution based on ideas, challenging norms, and raising consciousness.

ZOHAIR JAMAL, a member of SFPJ and the Muslim Students Association, had planned to speak about racism and the backlash against Muslim and Arab Americans following the Sept. 11, 2001 attacks. Although he will be attending UC Berkeley next year, Zohair would like to come back to DVHS to attend the rally in September.

PARENTAL NOTIFICATION ON NEXT STATE BALLOT

CONTINUED FROM PAGE 1

"Mandatory involvement laws do not transform abusive, dysfunctional families into stable and supportive ones. They simply endanger the most vulnerable teenagers," said ACLU-NC attorney Margaret Crosby, lead counsel for the medical associations in the court fight.

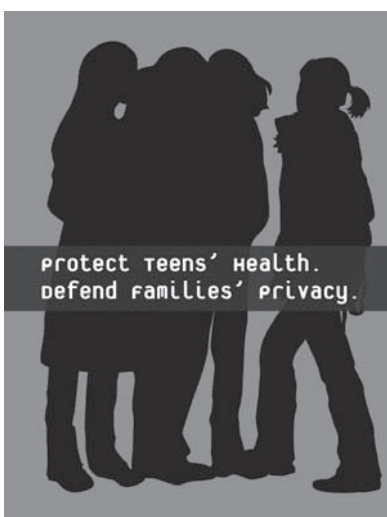
The measure, known as Proposition 73, would require a parent to be alerted at least 48 hours before a doctor could perform an abortion. However, a minor could petition a juvenile court for a waiver, which would be granted if the court decides she is mature enough to make an abortion decision, or if it finds that parental notice is not "in the best interests of the minor."

Also troubling is the measure's language "a child conceived but not yet born" to describe a fetus.

"This initiative is particularly dangerous, because it amends the California Constitution, not only restricting abortion rights but adding a new recognition of embryos as unborn children—which could have far-reaching effects," Crosby said.

Bankrolling the measure are winemaker Don Sebastiani, Domino's Pizza founder Tom Monaghan and San Diego newspaper publisher James Holman, all opponents of abortion. The measure's supporters argue that parents have a right to know the medical issues facing their underage daughters.

While opponents agree that teenagers and their parents should communicate about these very sensitive issues, the fact



is not all teenagers live in loving, supportive households. In some cases, a family member may even have impregnated the minor.

Studies show that more than half of minors who have abortions let their parents know about it. Those who opt not to tell usually have compelling reasons for doing so.

Moreover, a minor who cannot talk to either a parent or a judge may travel out of state to have an abortion, or have an unsafe, illegal or self-induced abortion. If passed, the measure is also sure to have a chilling effect on doctors who perform abortions.

For these and other reasons, the ACLU-NC has been challenging parental consent efforts since the California law was passed in 1987.

Because of the ACLU case, the law never actually took effect. Injunctions barring its enforcement were issued in the aftermath of the law's passage as attorneys argued forcefully that the law violates the California Constitution's explicit right to privacy.

In 1992, the San Francisco Superior Court issued a permanent injunction barring the enforcement of the law, and that ruling was upheld by a state appeals court.

In August 1997, the ACLU-NC scored a victory in *American Academy of Pediatrics v. Lungren* when the state high

court concluded that the consent law violates privacy and actually undermines its stated goals of protecting the health and welfare of adolescents and family harmony.

With the law found to be unconstitutional, parental consent

advocates are now trying

to get around the courts with this initiative

to amend the California Constitution.

The ACLU is among the organizations leading

the Campaign for Teen Safety to inform

voters of the dangers of the initiative.

While all parents rightfully want to be

involved in their teenagers' lives, good family communication

cannot be imposed by government.

This law puts vulnerable teenagers in

harm's way, or forces them to go to court. A terrified, pregnant teenager doesn't

need a judge, she needs a counselor.

Vote NO on Prop 73 this November and Protect Teen Safety. ■

"THIS INITIATIVE IS PARTICULARLY DANGEROUS, BECAUSE IT AMENDS THE CALIFORNIA CONSTITUTION, NOT ONLY RESTRICTING ABORTION RIGHTS BUT ADDING A NEW RECOGNITION OF EMBRYOS AS UNBORN CHILDREN—WHICH COULD HAVE FAR-REACHING EFFECTS."

-MARGARET CROSBY, ACLU-NC STAFF ATTORNEY

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SIKH INMATE SUES FOR RIGHT TO WEAR RELIGIOUS HEAD GEAR

By Sharada Balachandran-Orihuela

With blatant disregard for First Amendment rights and religious freedom, Yuba County jail officials prevented a Sikh asylum seeker from wearing his religious head covering. The American Civil Liberties Union is now filing suit on behalf of this humiliated detainee against Yuba County jail officials as well as federal officials involved in the suspension of the detainee's civil rights.

In May, in the wake of reports of religious intolerance in American-run detention centers abroad, Harpal Singh Cheema, a human rights lawyer and activist seeking asylum in the United States, filed a lawsuit shedding light on First Amendment violations here on American soil. The case brings to the fore troubling reports of civil liberties and civil rights violations in American detention centers.

"At a time when the world is watching how America treats its detainees abroad, it is important that our government respect the fundamental rights of people detained in this country," said Margaret Crosby, an attorney with the ACLU of Northern California (ACLU-NC).

After being repeatedly arrested and tortured by Indian authorities for his work as a political activist and human rights lawyer, Cheema fled India and sought refuge in the United States. He and his wife applied for asylum and other immigration relief when they arrived in the United States in 1993. Their applications are still pending 12 years later. While awaiting a final decision, Cheema has been detained by federal immigration authorities since 1997. After being shuffled among various detention centers during the course of his imprisonment, Cheema was transferred to Yuba County Jail, where he is now being held.

Cheema, a devout Sikh, has been deprived of his religious freedom at Yuba County Jail where he has endured severe restrictions on his use of a religious head covering. The jail authorities allowed him to wear a cloth garment covering his

head *only* while at his bunk praying, reading his religious book or eating. As a result, to comply with his religion's requirement that he cover his head at all times, Cheema is effectively confined to his bed. Cheema tried on his own to advocate for greater respect for his religious rights, but his efforts were unsuccessful. In response to a grievance that he filed asserting his

"IT IS DEEPLY TROUBLING THAT A PERSON SEEKING REFUGE FROM PERSECUTION CAN NOT ONLY BE LOCKED UP FOR YEARS ON END BUT ALSO BE DEPRIVED OF THE RELIGIOUS FREEDOM HE EXPECTED IN AMERICA."

**-ROBIN GOLDFADEN,
STAFF COUNSEL, ACLU
IMMIGRANTS RIGHTS
PROJECT**

two county jail officials—the Yuba County Sheriff and the warden of Yuba County Jail—and three officials from U.S.

right to cover his head in accordance with INS detention standards, Cheema was placed in segregation for a month.

The ACLU-NC and the ACLU Immigrants' Rights Project, in conjunction with ENSAAF, a non-profit organization that helps victims of human rights abuses in India, and the law firm of Wilson Sonsini Goodrich & Rosati, have filed suit against county jail officials and federal immigration authorities.

The defendants include



Immigration and Customs Enforcement (ICE), a bureau of the Department of Homeland Security. The ACLU, along with its partner organizations, is naming federal immigration authorities in the suit because ICE is ultimately responsible for ensuring that facilities such as Yuba County Jail where ICE places its detainees, comply with laws governing conditions of confinement as well as federal detention standards, which allow detainees to wear religious clothing such as turbans when appropriate.

As an *Amritdhari* Sikh, Cheema must live by a strict code of conduct, the *Rehat Maryada*, which includes the "5 K's" or the 5 prescribed physical articles proclaiming one's faith. One of the five K's, *kes* or *kesh*, refers to uncut hair, which *Amritdhari* Sikhs must cover with a turban, known as a *dastaar*. Under the rules, uncovering his head is a disrespectful and impious act that has subjected Cheema to humiliation. The lawsuit filed by the ACLU asks that Cheema be allowed to wear an appropriate religious head covering in jail, making him subject to reasonable searches.

"It is deeply troubling that a person seeking refuge from persecution cannot only be locked up for years on end, but also be deprived of the religious freedom he expected in America," said Robin Goldfaden, staff counsel with the ACLU Immigrants Rights Project. ■

LETTERS TO THE EDITOR

Dear Editor,

Your "70 Years for Justice" article was a compelling, but contained one significant error that requires correction. The statement that "Proposition 227 scrapped bilingual education" is incorrect. While the proponents of Proposition 227 likely had that goal in mind, what 227 actually did was establish "English immersion" as the default mode of instruction for English learners while maintaining—and, arguably, actually strengthening—parental choice. That choice includes the option of parents placing their children in classrooms using bilingual education techniques. Over 130,000 California students were enrolled in such programs during the 2003-04 school year. Bilingual education in California is alive and well and deserves our continued support and defense.

Sincerely,

James Zabradka

Dear Editor,

It seems pretty reasonable for people to wear ID tags when they are in buildings or on campuses. I wear a badge at work. To add a Radio Frequency Identification (RFID) to the badge does not seem to pose any threat to me.

The range at which an RFID tag can be read is a very significant variable, which was not mentioned in the article by Nicole Ozer.

I share her discomfort at the notion that my drivers license number might be obtained by an unknown person while I am riding a bus, or attending a political rally. But that is a very different situation than a school campus.

As for concerns about RFID on passports, while we might wish that we could travel around the world without such

identification showing entry and exit stamps, that is not and never has been the world we live in.

Ozer might have noticed that blue passports embossed in gold with United States of America are easily identified as one passes through Passport Control. They don't look anything like the red ones carried by British citizens. For that matter, it is easy enough to recognize Americans. We are the large people dressed in distinctly American style, with good haircuts.

My point is not to ridicule her concern about surveillance. Certainly the FBI circulating in a crowd and recording our names is a realistic concern, given that drivers licenses or national identity cards might contain RFIDs. Such a scheme is currently proposed in the United Kingdom, I believe.

But we must be rational when we address the privacy and free speech implications of new technologies such as RFID.

It is difficult to imagine what risks the school officials perceived that justified ID badges for their students. What is the threat from a strange child being present on their campus? How likely would it be?

She might have reported on these things rather than sharing her fantasies of social control.

Regards,

Richard Carpenter

RESPONSE TO RFID LETTER

Dear Author,

You are absolutely correct to point out that Radio Frequency Identification (RFID) tags have variable read ranges. While some "passive" tags have an intended read-ranges of a few inches, other self-powered or "active" tags are expressly

manufactured to communicate with readers as far away as 30 feet.

In my article, I wrote that the passive RFID tags under consideration by the U.S. government for inclusion in passports might actually be scanned from up to a meter, or 3 feet away. However, recent research by the U.S. Department of State has revealed that the read-range of these tags could be even greater than three feet. It has also been reported that unauthorized readers could "eavesdrop" on data transmissions from as far away as 30 feet. Unfortunately, even the projections of an ACLU attorney sometimes end up being too conservative.

With small and powerful readers entering the market, there is a very real danger that RFID-embedded identification documents would be read surreptitiously as an individual walks through a doorway or hallway, sits on a bus or train, or stands at a political rally.

Fortunately, the Identity Information Protection Act of 2005 (SB 682) is moving through the California state legislature. This bill will protect the privacy, personal safety, and financial security of Californians by prohibiting the inclusion of RFID tags in driver's licenses, K-12 student identification cards, medical and benefit cards, and library cards. If you are interested in learning more about the privacy and security implications of RFID tags in identification documents or urging your legislator to support SB 682, please visit our website at www.aclunc.org.

Nicole A. Ozer

Technology and Civil Liberties Policy Director,
ACLU of Northern California

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

ACLU TAKES ADVANTAGE OF AL FRANKEN'S SPOTLIGHT

By Natalie Wormeli, Chairperson, ACLU Yolo County Chapter

Live from the Crest Theater in Sacramento, California, it's the Al Franken Show! (Applause, cheers, and whistles.) Thus began a three-hour broadcast hosted by Sacramento's Talk City 1240 radio on May 11th heard on over 64 radio stations throughout the country. This energy-filled theater provided a unique outreach opportunity for the Yolo County chapter of the ACLU of Northern California (ACLU-NC).

The Al Franken show is a clever combination of news and entertainment. The show often focuses on debunking lies presented on other radio and television broadcasts. There have been many moments in the last year where Franken has enthusiastically exposed lies spewed by Bill O'Reilly about the ACLU. In particular, the "Christmas Under Siege" series and the "ACLU is a terrorist organization" diatribe. Franken has dedicated a large chunk of his time on the air following those O'Reilly broadcasts to point out the positives of the ACLU.

We contacted Talk City 1240 radio to inquire about tabling space for this live broadcast. The ACLU-NC agreed that this was a good outreach opportunity and offered to help with the cost. We also recovered some expenses by selling Yolo County ACLU tee shirts with a choice of two pithy quotes under our logo:

"An idea that is not dangerous is unworthy of being called an idea at all."

—Oscar Wilde

"Whoever would overthrow the liberty of a nation must begin by subduing the freeness of speech."

—Benjamin Franklin

Before the broadcast began, we handed out over 150 ACLU membership applications and 300 action alerts to interested Air America listeners, hungry for information.

After the broadcast, it was again time for us to push product and information. Back out in the lobby, the book-signing line



Natalie Wormeli with Al Franken.

moved slowly passed our table for over an hour. We yelled, "Support the ACLU. Buy a tee shirt." Time passed. Then we yelled, "Support free speech! Buy a tee shirt." and then, the final pitch: "Shut Me Up - Buy a Tee Shirt!!" Someone replied, "How much would that cost?" Reply: "Tee shirts are \$20.00!" Ultimately, we did sell many tee shirts and we gave out lots of action alerts and other ACLU propaganda. Many ACLU members dropped by just to say they were already card-carrying and proud.

We gave Franken a tee shirt as well as other gifts and a card explaining our appreciation to them for making the best of the public airwaves by providing uncensored information and encouraging participation in this democracy. As Franken's public persona has shifted from the Saturday Night Live sketch characters to an entertainer providing serious information, we mentioned in our note to him that despite what he might hear - ACLU does not stand for "Al, Come on Lighten Up!" Franken signed board member Kandice Richardson's copy of his

book "Kandice, you are good enough, you are smart enough, and doggone it--people like you!"

Despite the unusual expense behind this tabling effort—this was a successful outreach for our local chapter. The Talk City 1240 crew, from the general manager to the on-air talent, sincerely appreciated our support and graciously offered to record PSA's as well as interviews on their local shows for any ACLU issues. Christine Craft, the host of the 4-6 p.m. local show, was particularly friendly to our volunteers. We continue to nurture this relationship and we will remember our exciting field trip to the Crest Theater in Sacramento.

Tabling at the Crest Theater—\$1,240

Yolo County ACLU tee shirt—\$20

Free Speech—PRICELESS ■

UPCOMING CHAPTER EVENTS

SANTA CRUZ COUNTY CHAPTER

Summer Fundraiser and Awards Presentation
Saturday, August 21, 2 p.m.
La Feliz Room, Seymour Center,
Long Marine Laboratory, Santa Cruz

MID-PENINSULA CHAPTER

Wine & Cheese & Chocolate party
September 10, 4-8 p.m.
Palo Alto Area—site not yet determined
Contact Harry Anisgard for details:
call (650) 856-9186
or email hanisgard@sbcglobal.net

GET INVOLVED! LOCAL CHAPTER MEETINGS

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

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

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

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

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

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

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

NORTH PENINSULA (DALY CITY TO SAN CARLOS) CHAPTER MEETING: Fourth Monday of odd-numbered months at 7:30 p.m., in the downstairs conference room at 700 Laurel Street (off Fifth Avenue), San Mateo. Contact chapter hotline for more information: (650) 579-1789. npenaclu@comcast.net

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

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

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

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

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

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

SONOMA COUNTY CHAPTER MEETING: Third Tuesday of each month, at 7 p.m. at the Peace and Justice Center, 467

Sebastopol Avenue, Santa Rosa (one block west of Santa Rosa Avenue). Contact the Sonoma hotline for more information: (707) 765-5005 or visit www.aclusonoma.org.

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

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

NEW CHAPTERS ORGANIZING

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

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

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

CAMPUS CLUBS

BERKELEY CAMPUS ACLU: Every Wednesday from 7:30 -8:30 p.m. at 220 Wheeler Hall. For more information, visit www.berkeleyaclu.com or contact Hira Khan at hiraak@gmail.com.

DAVIS CAMPUS ACLU: Contact James Schwab for more information: (530) 756-1482 or jmschwab@yahoo.com
Santa Clara University Law: Contact Pamela Glazner for more information: (408) 421-6103 or pglazner@scu.edu.

ASK THE EXPERTS! PATRIOT ACT SUNSET PROVISIONS

WHICH PROVISIONS OF THE PATRIOT ACT ARE SCHEDULED TO SUNSET THIS YEAR?

About one-tenth of the PATRIOT Act's 150 sections are scheduled to sunset on December 31, 2005, including some of its most troubling provisions: Section 206, which allows federal investigators to use "John Doe" roving wiretaps, linked neither to a particular telephone nor a specifically named suspect; Section 215, which enables the FBI to seize any "tangible thing" from any entity, needing only judicial

rubberstamp approval to proceed; Section 218, which permits criminal investigators to cut corners in investigations in which foreign intelligence gathering is involved as a "significant purpose"; and others.

These aren't the only provisions of the PATRIOT Act that threaten our rights as Americans. The act contains permanent sections giving the government the power to detain non-citizen terrorist suspects for seven days without charges (Section 412), classify civilly disobedient protesters as "domestic terrorists" (Section 802), search and seize private property without notifying the owners for months (Section 213), and seize some classes of sensitive records without judicial review or individual suspicion of wrongdoing (Section 505). The provisions of the PATRIOT Act that are slated to sunset include only a fraction of the new powers that chip away at our civil liberties.



Dorothy Ehrlich

Incredibly, Congress is considering extending these provisions indefinitely. Legislation that would make the sunset provisions permanent is currently under review in the Congress.

IS THAT ALL CONGRESS IS CONSIDERING—KEEPING THE ACT AS IT IS?

No. Proposed legislation could do much more than make the sunset provisions permanent; it could give drastic new powers to the FBI and federal investigators. These powers include "administrative subpoena" authority, which would enable the FBI to unilaterally demand any records or materials related to a terrorism investigation; and mail cover authority, under which the FBI could track the recipients and senders of all mail passing through a particular address. Both new powers would carry automatic and permanent gag orders; neither power would require even the peripheral involvement of a judge, removing checks that have limited investigative power for more than 200 years.

BUT I DON'T HEAR MUCH ABOUT ABUSE OF THE PATRIOT ACT. IF IT ISN'T BROKEN, WHY FIX IT?

Administration officials often claim that the PATRIOT Act has never been abused, but their claims rely upon a secretive policy of non-disclosure that keeps abuses hidden from view. Many of the most invasive PATRIOT Act powers are exercised covertly under the auspices of a secret foreign intelligence court, and gag orders prevent those compelled to assist investigations from revealing that they ever took place.

Despite this cloak of secrecy, instances of abuse do occasionally come to light. There is the case of Brandon

After Sept. 11, 2001, Congress passed the USA PATRIOT Act under rushed circumstances, vastly expanding the government's power to monitor Americans. Four years later, some of the PATRIOT Act's most controversial provisions are scheduled to "sunset," or expire at the end of the year. ACLU-NC Executive Director Dorothy Ehrlich answers questions about the debate over the sunset provisions and what the federal government's growing investigative powers mean for our civil liberties.

Mayfield, the Portland lawyer whose house was secretly ransacked under Section 218 of the PATRIOT Act in an unsuccessful attempt to turn up connections to the Madrid subway bombings. Take, for example, Tariq Ramadan, the Notre Dame scholar whose visa was revoked under Section 411 because authorities took issue with his political speeches and writings; or Sami al-Hussayen, the University of Idaho graduate student who was prosecuted under Section 805 because his webpage included the same links to Islamist pages found on the BBC website.

As for Section 215, the American Library Association in June found at least 200 instances since late 2001 in which police targeted libraries in a hunt for information. Because Section 215 makes it illegal for anyone involved in a search to make it public, there was no way the ALA study could determine if the actions were Patriot Act-approved.

CAN THE GOVERNMENT INVESTIGATE ME IF I'M NOT A TERRORIST?

Yes. One of the most troubling aspects of the PATRIOT Act is that its powers allow investigators to target anyone, without suspicion of wrongdoing and without letting targets know they're being watched.

Section 215, the "library records provision," allows the FBI to demand materials or records from any organization or institution without demonstrating a link between the request and a particular terrorist suspect. Under section 215, the Bureau can spy on anyone who has checked out a book, made a purchase at a store, or attended a meeting of a group that the government finds suspicious. Section 505 likewise eliminates the standard of individual suspicion, allowing the FBI to unilaterally demand the financial and communications records of ordinary, innocent Americans.

Meanwhile, Section 206, the roving wiretap provision, allows investigators to record telephone conversations without first ensuring that they are hearing actual terrorist suspects; Section 212 permits Internet Service Providers to turn over emails related to an imminent crime without making sure that other emails are not disclosed, as well.

Only rarely do these provisions require the ultimate notification of those spied upon. More commonly, investigators must admit that they've conducted surveillance only if they plan to use surveillance evidence in a trial – meaning that those accused of crimes actually have more of a right to know that they've been watched than wholly innocent Americans.

DON'T INVESTIGATORS NEED APPROVAL FROM A JUDGE BEFORE THEY CAN USE THESE POWERS?

Many PATRIOT Act provisions treat judges merely as rubber stamps; some leave judges out entirely. Investigators can demand financial, Internet, credit, and telephone records (Section 215) and obtain email records and content from Internet Service Providers (Section 212) without first ask-

ing a judge, and they can obtain any other records (Section 215) and record incoming and outgoing telephone numbers and email addresses (Sections 214 and 216) by simply certifying to a judge that the information is needed for an investigation. Under these circumstances, judges have no choice but to comply with investigators' request for information, making judicial approval nothing more than a bureaucratic nicety.

SHOULDN'T INVESTIGATORS HAVE ALL THE TOOLS THEY NEED TO FIGHT TERRORISM?

The ACLU and other civil liberties advocates support many aspects of the PATRIOT Act.

However, we believe that national security efforts are strengthened when they respect the U.S. Constitution and traditional American values. PATRIOT Act reform can

PROPOSED LEGISLATION COULD DO MUCH MORE THAN MAKE THE SUNSET PROVISIONS PERMANENT; IT COULD GIVE DRASTIC NEW POWERS TO THE FBI AND FEDERAL INVESTIGATORS.

result in legislation that is targeted and effective, instead of statutes that expand investigative authority needlessly at the expense of our liberty.

HOW CAN I GET INVOLVED?

To that end, the ACLU has endorsed the bipartisan 2005 SAFE Act, a bill that would restore some of the checks and balances erased by the PATRIOT Act while preserving the investigative powers that the government has requested. Legislation like the SAFE Act shows that we can be both safe and free.

Visit our website at www.aclunc.org to learn how you can help keep American Safe and Free. Your elected officials, Senators Dianne Feinstein and Barbara Boxer, and your U.S. Representative must hear from you. Your letters make an enormous difference when Congress decides how to vote on legislation. Host a house party and invite friends to join you to write to your representatives in Congress. And please take a moment to email us copies of correspondence you send at patriotletters@aclunc.org, as well as any response you receive. With your help, we can protect our civil liberties. ■

ACLU FORUM

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

WE WANT TO HEAR FROM YOU!

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

Border Vigilanties a.k.a. Minutemen

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

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