

# ACLU SUMMER 2007 news

BECAUSE FREEDOM CAN'T PROTECT ITSELF

VOLUME LXXI ISSUE 3

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## CIVIL RIGHTS GROUPS SUE OVER DETENTION OF 6-YEAR-OLD CITIZEN



GIGI PANDIAN

*Immigration officers detained six-year-old U.S. citizen Kebin Reyes despite his father's pleas.*

By Rene Ciriacruz

**K**ebin Reyes was still asleep when immigration agents pounded on the door early on the morning of March 6. Officers with the Immigration and Customs Enforcement Agency (ICE) stormed the San Rafael apartment where the six-year-old lived, rounded up the occupants and demanded their papers and passports.

Kebin's father, Noe Reyes, an immigrant, was taken into custody. So was Kebin, who is a U.S. citizen and had the documents to prove it.

The six-year-old's detention is at the center of a lawsuit filed on April 26 by the ACLU of Northern California, the Lawyers' Committee for Civil Rights, the ACLU Immigrants' Rights Project and the law firm of Coblenz, Patch, Duffy & Bass LLP. Charging immigration officials with the unlawful detention of a U.S. citizen child, the lawsuit is seeking damages for Kebin Reyes.

When the officers detained Noe Reyes, he immediately identified his son as a U.S. citizen and handed over Kebin's U.S. passport. Reyes made repeated requests to make a phone call to arrange for family members to take care of the boy.

Instead, agents told Reyes to wake up Kebin. Then they forced the boy to watch as they handcuffed and prepared to take his father away. They told Kebin to place his own arms behind his back, like his father's, and told the pair they would be detained for an hour or two.

But Kebin and his father were locked up at the ICE detention

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### BOARD ELECTION NOTICE

The ACLU-NC Board of Directors, in accordance with changes adopted in 2003, has an election schedule as follows:

Nominations for the Board of Directors will now be submitted by the September Board meeting; candidates and ballots will appear in the Fall issue of the ACLU News; elected board members will begin their three-year term in January.

As provided by the revised ACLU-NC by-laws, the ACLU-NC membership is entitled to elect its 2007-2008 Board of Directors directly. The nominating committee is now seeking suggestions from the membership to fill at-large positions on the Board.

ACLU members may participate in the nominating process in two ways:

1. Send suggestions for the nominating committee's consideration prior to the September Board meeting (September 20, 2007). Address suggestions to: Nominating Committee, ACLU-NC, 39 Drumm Street, San Francisco, CA 94111. Include your nominee's qualifications and how the nominee may be reached.
2. Submit a petition of nomination with the signatures of 15 current ACLU-NC members. Petitions of nomination, which should also include the nominee's qualifications, must be submitted to the Board of Directors by October 10, 2007 (20 days after the September Board meeting). Current ACLU members are those who have renewed their membership during the last 12 months. Only current members are eligible to submit nominations, sign petitions of nomination, and vote. No member may sign more than one such petition.

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*.

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## LETTER FROM THE EXECUTIVE DIRECTOR



Dear Friends,

We send you this issue of the *ACLU News* under the dark shadow of the recently concluded U.S. Supreme Court session. In a series of disastrous 5-4 decisions, the court upheld the first ever federal law criminalizing abortion, stripped high school students of their First Amendment rights, rejected a challenge to government endorsement of religion, and severely restricted local school districts' ability to attain racial diversity.

In recent months, we've also witnessed how the "war on terror" hits close to home. A San Jose-based corporation, Jeppesen Dataplan, allegedly provided aircraft, flight crews and logistical support for CIA "rendition flights" that carried dozens of people to destinations of torture. In San Rafael, ICE agents seized six-year-old Kebin Reyes and locked him in a detention center for ten hours, although he is a U.S. citizen and his father pleaded with the agents to call the boy's uncle.

But don't lose hope. In the *ACLU News*, you will read more than just a description of these disturbing developments. You will learn about the work the ACLU-NC is doing to challenge and reverse these assaults on civil liberties.

I am sure that you will feel as proud as I do to be an ACLU member, knowing that the ACLU-NC filed a lawsuit on behalf of young Kebin Reyes, charging ICE with the unlawful detention of a U.S. citizen, and that we are also representing Binyam Mohamed, who was tortured and held in secret prisons in Morocco and Afghanistan, transported to those destinations with the alleged support of Jeppesen's flight services.

On our legislative page, you will read how our advocates in Sacramento helped secure the passage of the first state law in the nation to prevent municipalities from passing ordinances denying housing to tenants based on their immigration status, and stopped 22 other anti-immigrant measures.

And our response to the Supreme Court rulings? In our back-page feature "Ask the Experts," leading reproductive rights attorney Margaret Crosby explains what can be done in California to protect a woman's right to choose. And if you think the high court—or anyone else—can prevent our ACLU student activists from speaking their mind, we invite you to read their fresh, spirited writings on the Youth page.

We hope these stories will spur you to play an active role in the ACLU—join your local chapter, nominate candidates for the Board of Directors, mark your calendar for the Bill of Rights Day Celebration.

When I get discouraged by Supreme Court rulings, immigration raids and human rights abuses that start in our own backyard, I'm always uplifted and inspired by the young people in our Friedman youth project. You will see what I mean when you read the hopeful essay from our Youth Activist Committee member Constance Castillo, who writes, "My goal is no longer to someday be an activist, but instead that my activism will someday trigger change."

Maya Harris  
Executive Director

## BOARD ELECTION NOTICE CONTINUED FROM PAGE 1 REVISED ACLU-NC BY-LAWS

**ARTICLE VI, SECTION 3: Presentation of Nominations and Additional Nominations.** The final report of the committee to nominate members-at-large to the Board shall be presented at the September Board meeting. Members of the Board may propose additional nominations. If no additional nominations are proposed by Board members, the Board by a majority of those present and voting, shall adopt the nominating committee report. If additional nominations are proposed, the Board shall, by written ballot, elect a slate of nominees with each member being entitled to cast a number of votes equal to the vacancies to be filled; the persons nominated by the Board shall be those persons, equal in number to the vacancies to be filled, who have received the greatest number of votes. The list of nominees to be placed before the membership of the Union for election shall be those persons nominated by the Board as herein provided, together with those persons nominated by petition as hereinafter provided in Section 4.

**ARTICLE VI, SECTION 4: Recommendations and Nominations by Members of the Union.** Any 15 or more members of the Union in good standing may themselves submit a nomination to be included among those voted upon by the general membership by submitting a written petition to the Board not later than 20 days after the adoption by the Board of the slate of Board nominees. No member of the Union may sign more than one such petition, and each such nomination shall be accompanied by a summary of qualifications and the written consent of the nominee. This provision of the By-Laws shall be printed in the first page of the summer issue of the *ACLU News* together with an article advising members of their rights in the nominating process. ■

## A SPECIAL 'THANK YOU': 2007 BENEFACTORS DINNER

Each year, the ACLU-NC hosts a special event for members of our Freedom Circle, the giving circle for major ACLU supporters in Northern California. The Benefactors Dinner is our way of saying "Thank you" and offering an inside look at the vital work made possible by the Freedom Circle's generous support. This year's event featured a presentation on the changing landscape of the reproductive rights movement. If you'd like to learn more about joining the Freedom Circle, please contact Cori Stell, Major Gifts Officer, at [cstell@aclunc.org](mailto:cstell@aclunc.org).



PHOTOS: SUSANA MILLMAN

*Drs. Silva and Oldrich Vasicek settle in to enjoy the evening's program.*

*Former ACLU-NC Board members Barbara Brenner and Emily Skolnick catch up during the reception.*

*ACLU-NC Board member Jim Blume (center) raises a glass with Kathryn Frank (left) and former Board member Julius Young (right).*

SAVE THE DATE!  
**BILL OF RIGHTS DAY  
2007**

**Sunday, December 9**  
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### ACLUnews

THE QUARTERLY PUBLICATION OF THE  
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Quinn Delaney, CHAIR  
Maya Harris, EXECUTIVE DIRECTOR  
Rachel Swain, EDITOR  
Gigi Pandian, DESIGNER AND PRODUCTION MANAGER



39 Drumm Street, San Francisco, CA 94111  
(415) 621-2493

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# FIGHTING FOR IMMIGRANT RIGHTS AT THE STATE LEVEL

By Vivek Malhotra

While a fiery national debate on immigration reform rages on in the halls of Congress, cities, counties, and states across the country are frustrated and increasingly willing to take matters into their own hands.

Despite the established legal principle that immigration enforcement is the exclusive province of the federal government, the new legislative session brought forth a slew of bills seeking to expand California's ability to assume federal immigration enforcement responsibilities. The ACLU led efforts to fight back many of the harshest, anti-immigrant measures.



We also worked closely with tenant advocates and landlord groups to craft affirmative legislation, AB 976, introduced by Assembly Member Chuck Calderon (D-Whittier), to expressly prohibit local jurisdictions from enacting ordinances seeking to deny housing to tenants based on their immigration status. The measure is a direct response to recent efforts in some California cities, such as San Bernardino and Escondido, to compel private landlords to become de facto immigration agents and verify the immigration status of prospective tenants.

Variations of these anti-immigrant ordinances have been enacted in cities across the country. The ACLU has joined forces with the Mexican American Legal Defense & Educational Fund (MALDEF) and other groups to challenge the local laws on the basis that federal law preempts local

action in this regard. The laws also raise serious constitutional due process and equal protection problems, and run afoul of federal and state anti-discrimination protections. Local business, landlord, and community coalitions have come together and shown that these proposals lead to mass racial and ethnic profiling, and devastate city commerce. To date, not one has withstood constitutional scrutiny.

In Escondido, the city council withdrew legislation imposing new immigration enforcement functions on local landlords at the end of last year, after a federal court granted a temporary restraining order sought by the ACLU of San Diego and Imperial Counties and a coalition of civil rights groups on behalf of tenants, landlords, and the local human rights commission, who challenged the ordinance. While the city settled that lawsuit, council members have threatened to return with an alternative proposal that they think will have a better chance of passing constitutional muster.

Officials in Escondido and other California cities have indicated that they are waiting to see how similar ACLU lawsuits are resolved in other jurisdictions, including Texas and Pennsylvania, where federal courts have also enjoined local ordinances as litigation proceeds.

AB 976 would make California the only state in the country to affirmatively prohibit cities and counties from enacting such ordinances. The bill was passed out of the Assembly, and won approval by the Senate Judiciary Committee. It is now pending approval of the full Senate, before it can be sent to the governor's desk.

The legislature also saw no fewer than 22 anti-immigrant bills introduced this year. The ACLU played a principal role in mobilizing opposition and educating lawmakers about the harmful effects of these bills on California's tremendously

diverse immigrant communities. In a departure from the anti-immigrant demagoguery sweeping lawmaking bodies in other regions of the country, all of the proposals were either defeated or tabled without reaching the floor.

Among these failed bills were the perennial efforts to deny higher educational opportunities to kids based on their immigration status and to invest local police officers with immigration enforcement authority.

Other proposals that were defeated included AB 735, by Assembly Member Rick Keene (R-Chico), which sought to establish a work permit scheme to require all non-citizens to pay a \$1,000 fee, submit fingerprints, and undergo criminal background checks in order to work in the state of California. SB 3, by Senator Tom Harman (R-Huntington Beach), would have criminalized the presence of undocumented immigrants in the state as a trespassing violation. A federal proposal to criminalize the presence of over 12 million undocumented immigrants in the United States, led to mass street demonstrations around the country last year. ■



## SACRAMENTO REPORT

By Vivek Malhotra

With summer upon us once again, a number of the ACLU's highest priority bills continue to make their way through the legislative process. June 8 marked the deadline for bills to be voted out of their house of origin. Bills must now be heard in the second house before the Legislature takes a month-long recess. When they return in mid-August, lawmakers will have just a few weeks to send bills to the governor.

### POLICE ACCOUNTABILITY

The fight to overturn the California Supreme Court's decision in *Copley Press v. Superior Court* rages on in Sacramento, with the state Senate's approval of **SB 1019** in June. The bill, introduced by Senator Gloria Romero (D-Los Angeles), restores public access to police misconduct records and hearings denied by the Supreme Court ruling just last year. A bipartisan group of senators provided the margin of victory with 22 votes, just one more than needed to move the bill over to the state Assembly. The bill now faces a difficult hurdle in the Assembly, where it must be approved by the Public Safety Committee before it can be voted on by the full house.

### WRONGFUL CONVICTIONS

Also winning the approval of the state Senate was a trio of criminal justice reform bills that lessen the risks of wrongful convictions. **SB 511**, by Senator Elaine Alquist (D-San Jose), reduces the likelihood of false confessions by requiring the electronic recording of police interrogations in homicide and serious felony cases. **SB 609**, by Senator Romero, mitigates the use of false testimony from informants by demanding corroborating evidence for in-custody informant testimony. Finally, **SB 756**, by Senator Mark Ridley-Thomas (D-Los Angeles), increases the accuracy of eyewitness identifications by urging local police departments to adopt guidelines on the conduct of police line-ups and photo arrays. All three bills now await action by the state Assembly.

### RADIO FREQUENCY ID TAGS

The ACLU's battle to protect individual privacy by establishing appropriate safeguards before the government can insert radio frequency identification (RFID) tags in government-issued identification documents, continues with the approval of several bills by the state Senate. Chief among them is **SB 30**, introduced by perennial privacy stalwart Senator Joe Simitian (D-Palo Alto). RFID tags are microchips that can remotely transmit personal identifying information through tiny antennae. If misused, the technology exposes individuals to identity theft and threatens personal safety. This bill now sits in the Assembly.

### EDUCATIONAL EQUITY

In June, the state Senate also passed out the ACLU's principal educational equity bill, **SB 405**. This legislation, successor to the organization's groundbreaking work in the *Williams v. State of California* case to ensure that all California public school students are afforded equal educational opportunities, will help close the college and workforce opportunity gap facing many high school students, particularly low-income students, students of color, and English language learners. Introduced by Senator Darrell Steinberg (D-Sacramento), SB 405 promotes meaningful access to the college preparatory and career technical coursework students need to succeed after graduating from high school.

### PREGNANCY PREVENTION

On the Assembly side, the ACLU won passage of **AB 629**, by Assembly Member Julia Brownley (D-Santa Monica), to ensure that pregnancy prevention and STD education programs are medically accurate, bias free, and age-appropriate. The bill now awaits action by the Senate.

### NAME-CHANGE EQUITY

Assembly lawmakers also approved a high-profile ACLU-sponsored bill to guarantee that men and women are treated equally when they opt to change their names upon marriage or registration as domestic partners. **AB 102**, introduced by Assembly Member Fiona Ma (D-San Francisco), which codifies the equal name-change options, won bipartisan support in the Assembly. The bill is moving quickly in the Senate and is expected to reach the governor's desk as early as July.

### DEATH WITH DIGNITY

One major note of disappointment was struck by the demise of **AB 374**, the Compassionate Choices Act, for the third consecutive year. Despite enjoying strong public support and backing from Speaker Fabian Nuñez (D-Los Angeles), the bill stalled on the Assembly floor. With clear indications that they did not have the necessary 41 votes, co-authors Patty Berg (D-Eureka) and Lloyd Levine (D-Van Nuys) decided to forego a divisive and misinformed floor debate and held the bill over without a vote. The bill, modeled after Oregon's 10-year-old "Death With Dignity" law, would allow terminally ill patients at the end of their lives to request prescriptions from doctors to enable them to hasten their own deaths and avoid prolonged suffering. Polls consistently show strong majority support among Californians of every racial, ethnic, and religious group for this option. A number of undecided lawmakers expressed apprehension about going up against the Catholic Church hierarchy, which has expended considerable resources to oppose the legislation. Cardinal Roger Mahony of the Los Angeles Archdiocese had publicly chastised Speaker Nuñez, a Catholic, for his support of the bill.

To take action on the ACLU's priority bills, visit [www.aclunc.org/action](http://www.aclunc.org/action). ■

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

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# 6-YEAR-OLD DETAINED

CONTINUED FROM PAGE 1

center for 10 hours and given only bread and water. Reyes' requests to make a phone call to seek alternative care for his son were denied, and ICE agents made no efforts to find appropriate care for the boy.

Kebin was finally released that evening, only after his uncle, who had to wait hours at the detention center for the child's release, learned about the incident from neighbors.

For a child, experts say, the trauma of seeing a parent handcuffed and taken away, compounded by the experience of being detained, can have severe and long-term effects.

"We have treated numerous children who have been severely traumatized by seeing their parents taken away in the most abrupt and terrifying manner," said Dr. Amana Ayoub, a psychologist at the Center for Survivors of Torture. "Left untreated, these children will likely go on to suffer Post Traumatic

Stress Disorder," Dr. Ayoub wrote in a statement expressing concern for Kebin.

Six weeks after the incident, Kebin continues to have nightmares, according to his attorneys. "Kebin thought he was in jail—this was clearly a traumatic incident for him," says Howard Slavitt of the law firm Coblenz, Patch, Duffy & Bass LLP. "There was no reason for his arrest, and no explanation that Kebin's family can offer him. That's because the arrest was arbitrary and irrational."

Since May 2006, when ICE's "Operation Return to Sender" was launched, immigration raids have been conducted throughout the nation, resulting in the detention of more than 18,000 immigrants, according to recent news reports. In the Bay Area, raids were conducted in several counties including Marin, Contra Costa, San Francisco, Redwood City, and Santa Cruz.

"What happened to Kebin is the latest, most shocking incident," says Philip Hwang, a staff attorney with the Lawyers' Committee for Civil Rights of the San Francisco Bay Area. "Government agents in recent months have entered homes without warrants and threatened and intimidated community members."

The Lawyers' Committee has brought nine cases against Bay Area immigration agents in recent years.

Julia Harumi Mass, ACLU-NC staff attorney, deplored ICE's treatment of children as being out of line with U.S. standards of decency and fairness. "In addition to Kebin's case, we have heard reports of children left without care after their parents are detained, immigration agents targeting areas around elementary schools, and children too upset to participate in class after witnessing early morning raids in their communities," Mass said. "The human cost of these tactics is unacceptable."

In a letter to Michael Chertoff, Secretary of the Department of Homeland Security, U.S. Senator Dianne Feinstein stated that "the federal government has a special



Julia Harumi Mass, ACLU staff attorney, says the human cost of ICE's raid tactics is unacceptable.

obligation to ensure that the children of undocumented individuals are treated humanely and left with appropriate caregivers."

Concerned about reports of misconduct and abuse by ICE agents, on March 6 of this year the ACLU-NC, LCCR, and the *San Francisco Bay Guardian* newspaper filed a Freedom of Information Act request seeking records relating to recent enforcement actions. Some of the practices reported in the press included illegal entries and searches by ICE agents, misidentification of ICE agents as members of local police forces, inappropriate tactics related to children, ethnic profiling, violations of due process, and abusive treatment. ■



Authorities denied Noe Reyes' requests to make phone calls so relatives could take his young son from jail.

## LEGAL BRIEFS

### BERKELEY PUBLIC SCHOOLS CAN CONSIDER RACIAL DEMOGRAPHICS AS ONE FACTOR IN PLACING STUDENTS

Berkeley does not violate state law when it considers racial demographics as one of many factors in placing students in its public schools, Alameda County Superior Court Judge Winifred Y. Smith ruled on April 6.

Judge Smith held that Berkeley Unified School District (BUSD)'s elementary and high school student assignment plans are not discriminatory because they do not consider the race of individual students when making school assignments.

The court found that BUSD's consideration of a neighborhood's racial composition as one of the factors in assigning students to campuses does not violate Proposition 209's ban on "racial preferences." Race is only one of a number of factors, including parents' educational and income levels, that make up a neighborhood's diversity rating. Since it is the race of the neighborhood that is one of several factors considered in the student assignment plan, and not the race of individual students, the plan ensures that no students receive "racial preferences."

Smith held that the law is clear that the manner in which the student assignment plans consider race is constitutionally permissible. The judge said, however, that the court would hear the part of the lawsuit that challenges the legality of BUSD's Academic Pathways Program, which Pacific Legal Foundation alleges focuses on tutoring and mentoring low-income students and African American and Latino students.

Parents of the students in the district intervened last January to defend the district's efforts to ensure diversity

within its schools. They were represented by the ACLU of Northern California, the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, the ACLU of Southern California and the NAACP Legal Defense and Education Fund.

Berkeley parent Judy Appel said, "The court's decision is an important one. It will allow the district to continue to provide my kids and other Berkeley schoolchildren with a rich and full educational experience where they go to school with kids from backgrounds both similar and different from their own."

Berkeley was the first city in the United States to desegregate its public schools voluntarily. There are some 9,000 students of varying racial, ethnic and economic backgrounds.

Jory Steele, a staff attorney for the ACLU-NC, called the ruling "a great victory" for students and families in the Berkeley Unified School District because "it affirms the ability of school districts to take steps to avoid racially isolated schools."

### COURT OF APPEAL VOIDS SWEEPING GANG INJUNCTION

On April 23 the California Court of Appeal unanimously voided a permanent injunction imposed on the so-called Broderick Boys gang of West Sacramento because it was entered without giving constitutionally required prior notice to its intended targets.

Representing Angelo Velazquez, Keith Edwards, Benjamin Juarez and Jason Swearingin, the ACLU of Northern California argued that the failure to inform those targeted by the injunction that the district attorney was going to

court, denied them the opportunity to challenge in court the propriety of entering the injunction.

"If there had been proper notice, the state would have had to provide clear and convincing evidence that an injunction was warranted and that our clients and others were actually gang members," said ACLU-NC staff attorney Ann Brick.

The injunction covered an approximately three-square-mile "safety zone" in the older, largely Latino neighborhoods of Bryte and Broderick in West Sacramento. It was intended to apply to some 350 unnamed gang members.

It imposed a 10:00 p.m.-to-dawn curfew on its targets and barred them from "appearing" in public with any other "known" members of the Broderick Boys at any time of the day or night.

The injunction's provisions affected such ordinary activities as the use of public transportation, being in the park (even for a child's birthday party) or attending a close friend's wedding in a public place. Suspected gang members were also barred from being anywhere in public where alcohol is present, putting most restaurants off limits for the subjects of the injunction.

In invalidating the injunction, a three-judge panel for the Court of Appeal unanimously ruled that the district attorney's decision to serve just one alleged Broderick Boys member with notice violated due process.

The court said it was unrealistic to expect one person to tell the rest of the 350 targets that the district attorney was going to court to get an injunction, and that it was out of step with the practice utilized in other gang injunction cases. ■

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# FAIRFIELD FAMILIES WIN NEW POLICIES FOR POLICE IN SCHOOLS

By Rene Ciriacruz

On June 7, the City of Fairfield and ten families reached a settlement establishing comprehensive and improved guidelines for police conduct on school campuses. The new policies clarify student rights and include clear standards for when police can and cannot take photographs, and search or question students on campuses or at school functions.

All Fairfield police officers will be trained in these new policies and the Police Department and School District will provide educational material to students regarding their rights when interacting with the police.

The agreement relieved tensions resulting from a March 2 incident when Fairfield police officers entered the Rodriguez High School (RHS) campus and rounded up a group of students, accusing them of being gang members. As part of the agreement, Police Chief Kenton Rainey and RHS Principal Toni Taylor released an open letter to the RHS community declaring that no information pointed to the students as gang members and they were not the subject of any criminal investigation. All of the photographs and information collected on March 2 have been destroyed.

During the March 2 incident, the Student Resource Officer (SRO) at Rodriguez High School and members of the Fairfield Police Department's Gang Unit lined up two groups of Latino students at lunch, in front of their peers, asked them questions

about their clothing and photographed them.

"It was embarrassing," said sophomore, Rosa Mares, "I felt afraid to go to school after that." Victor Lopez, another sophomore who was among those photographed, complained that he was just talking to friends and wasn't doing anything wrong. "The police shouldn't assume we're gang members just because we're Latino and wearing certain colors. Lots of kids were wearing the same thing we were on that day and nothing happened to them."

The families demanded an explanation from the school and the police but were given an inadequate response. They contacted the ACLU of Northern California, and the negotiations that followed helped them secure the settlement. Instead of taking their claims to court for damages, the parents aimed for a comprehensive resolution to benefit all Fairfield residents. "We did this because our kids were so upset over what

happened," said mother Cari Stanhope. "We hope that in reaching this agreement we've helped make sure this won't happen to other children."

Delia Cantu, another parent, said, "I am heartened that the police department decided to work with us to address our concerns. This has been very stressful for us as families, but we are pleased that it has reached a successful outcome. I hope my son's experience at school will return to normal now."

**THE CITY HAS AGREED TO TRAIN POLICE ON CORRECT TREATMENT OF STUDENTS.**

Juniper Lesnik, the ACLU-NC attorney who negotiated the settlement, praised the police department for cooperating with the families. "Many schools in California now have full-time officers and most lack policies to adequately protect students' rights with the police," said Lesnik. "We are pleased that the City of Fairfield has taken this opportunity to improve relationships between students and police on campus so that schools can be a safe and welcoming place for all." ■

## PRISONERS' DOMESTIC PARTNERS WIN FAMILY VISITATION RIGHTS

Vernon Foeller's partner looked forward to visiting him at the California Medical Facility, even though it meant driving to Vacaville, sitting in an uncomfortable visiting room, and enduring the homophobic comments and attitudes of other prisoners, visitors and even prison staff. Foeller was serving 18 months for burglary.

### DENIED VISITATION RIGHTS

The two men were crushed, however, when California Department of Corrections and Rehabilitation (CDCR) personnel refused their request for an overnight family visit, even though they met all the other family visitation requirements and were registered domestic partners – a union recognized by the state of California. Subsequently, Vernon's partner contacted the ACLU.

The ACLU wrote several letters to the CDCR, demanding that Foeller and his partner be recognized as a family and allowed equal access to family visitation, and pointing out that under California's Family Code it was illegal for the department to deny such rights to registered domestic partners.

### CALIFORNIA LAW PROHIBITS DISCRIMINATION AGAINST DOMESTIC PARTNERS

In 2003, the Legislature amended the relevant section of the Family Code to prohibit California's public agencies from discriminating "against any person or couple because they are domestic partners rather than spouses." The Legislature found that the amendment was necessary to make our laws conform to the promises of "inalienable rights, liberty and equality" in the California Constitution.

The purpose of the amendment was to provide all caring and committed couples, regardless of their gender or sexual orientation, "the opportunity to obtain essential rights, protec-

tions and benefits...to further the state's interests in promoting stable and lasting relationships."

As a result of the ACLU's advocacy, the CDCR relented, and Foeller and his partner were able to have their first family visit in December 2006.

"Just knowing that my partner still believes in me gave me the confidence to start believing in myself again," Foeller said. "Being able to spend time with him gave us the opportunity to reconnect and begin planning our future together outside of prison," he added. Foeller was released from prison in April.

### VISITATION AN EFFECTIVE TOOL IN REHABILITATION

The ACLU, however, was still hearing from other couples who were being denied access to family visitation. The ACLU continued to press the CDCR, which finally proposed to change its statewide regulations to include registered domestic partners in the definition of family – expressly making them eligible for family visitation.

Alex Cleghorn, staff attorney with the ACLU of Northern California and the national ACLU's Lesbian, Gay, Bisexual and Transgender Project, stressed that the CDCR recognizes that allowing prisoners to spend quality time with their loved ones is an effective tool in rehabilitation. "We're glad that the CDCR will finally recognize that the registered domestic partners of prisoners have a right to be treated as any other immediate family member," Cleghorn stated.



### NEW REGULATIONS REFLECT RIGHTS OF DOMESTIC PARTNERS

On May 16, as required by law, the CDCR held a public hearing on the proposed regulation changes. Both Vernon Foeller and Cleghorn testified. Cleghorn's testimony included a statement from Vernon's partner, who wrote:

"The family visitation was important because it was time we could spend away from the regular visiting room. I was afraid of what would happen to him since people knew he was gay. I worried about his safety every day he was incarcerated."

Cleghorn said that the proposed regulations should also prevent the unfair treatment of lesbian and gay prisoners when the California Board of Prison Terms evaluates "family support" when deciding a prisoner's eligibility for parole.

He urged the CDCR to educate its personnel about the new regulations recognizing gay and lesbian registered domestic partners as family members that have the same visitation rights as spouses. He stressed that, as a practical matter, the proposed regulation changes are "mandatory under the state domestic partner law."

Cleghorn commended state correction officials for "recognizing the problem and taking the proper steps to correct it." He cautioned, however, that this incident was a "perfect example of how the domestic partnership law falls short of marriage, which has universal acceptance and recognition."

"Had my client said he wanted to visit with his spouse, this would have never been an issue," Cleghorn explained. ■

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# MAKING TORTURE POSSIBLE

By Maya Harris

**H**ow much money would it take to persuade you to participate in the physical abuse of another human being? Would your conscience rest easier if you knew your role was limited to transporting the unsuspecting victim to the location where unimaginable pain would be inflicted on his body. Jeppesen Dataplan Inc. is a company that specializes in providing high-priced, private flight services to exclusive clients. A household name in the aviation industry, Jeppesen can smooth out the departure, arrival and landing complications that sometimes make flying in and out of exotic locations difficult.

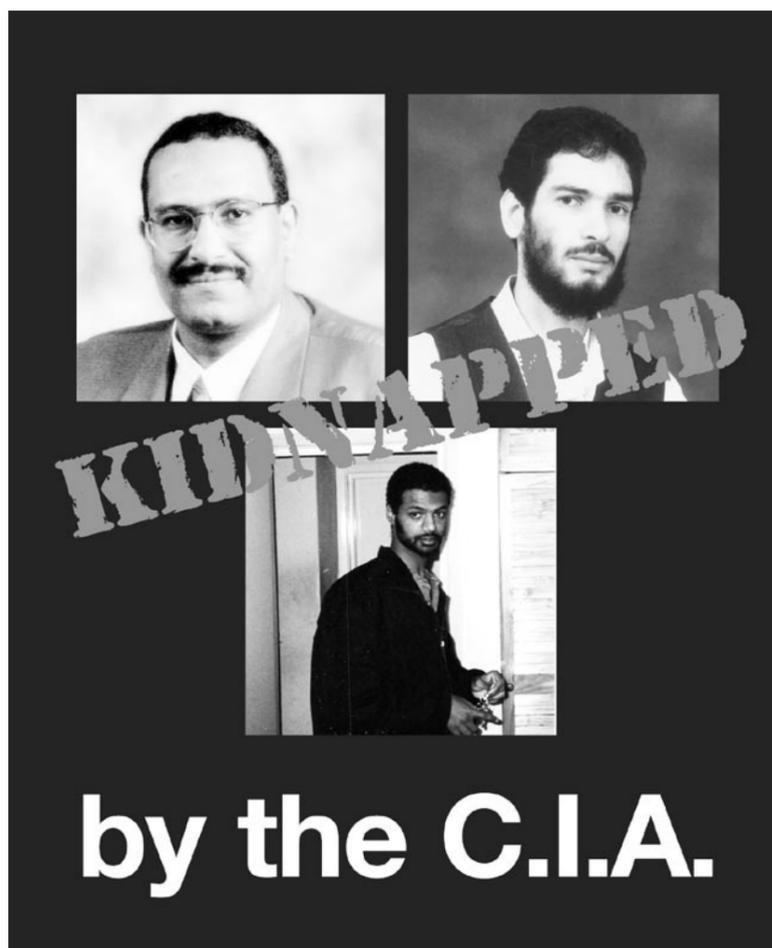
It's no wonder the CIA would seek such corporate services. According to a former Jeppesen employee, who recounted the words of a senior Jeppesen executive in a recently published article: "We [Jeppesen] do all of the extraordinary rendition flights—you know, the torture flights." The executive continued, "It certainly pays well. [The CIA] spare's no expense. They have absolutely no worry about costs."

Cost should be the least of our worries when it comes to torture. That's why the American Civil Liberties Union has sued Jeppesen for its alleged participation in the U.S. government's "extraordinary rendition" program—an illegal and immoral program that transports terror suspects to countries where the whole world knows that detainees are routinely tortured and abused.

It has been estimated that at least 150 foreign nationals have been victims of the CIA's rendition program in the past few years. The CIA has transported foreign nationals to detention and interrogation facilities in countries such as Jordan, Egypt, Afghanistan and Morocco, places where, according to the U.S. State Department and other sources, the use of torture is "routine." Indeed, in the words of former CIA agent Robert Baer, "If you want a serious interrogation, you send a prisoner to Jordan. If you want them to be tortured, you send them to Syria. If you want someone to disappear, never to see them again, you send them to Egypt."

To help facilitate transportation of these detainees, the CIA has sought the assistance of U.S.-based corporations such as Jeppesen. These companies provide the aircraft, flight crews and logistical support necessary for hundreds of international flights, all in return for undisclosed fees.

Our lawsuit, *Binyam Mohamed v. Jeppesen Dataplan, Inc.*, charges that Jeppesen has been a key provider of critical support services for at least 15 aircraft that made a total of 70 rendition flights. These ranged from preparing flight plans and furnishing services such as route and weather



*With alleged assistance from a Boeing subsidiary, the CIA secretly detained and tortured (clockwise from top left) Ahmed Agiza, Abou Elkassim Britel, and Binyam Mohamed.*

planning, to fueling, maintenance, customs clearance, and ground transportation.

Without these support services, the CIA's rendition flights literally could not have gotten off the ground. Equally important, Jeppesen's alleged role as the coordinator for virtually all public and private third parties has permitted the CIA to conduct these illegal torture activities below the radar of public scrutiny.

We brought the lawsuit under the Alien Tort Statute, 28 U.S.C. Section 1350, which was passed by Congress in 1789 for the express purpose of providing foreign nationals access to American courts to bring claims for violations of international law. Through this statute, corporations

have been held accountable when they have knowingly participated in human-rights abuses, such as forced labor or summary execution. The statute recognizes international norms accepted among civilized nations, such as the prohibition against torture, a practice that is universally condemned.

"Extraordinary rendition" violates, among other things, the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment. The U.S. ratified this convention in 1992 and Congress has made clear that it is our government's policy not to "expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States."

Notwithstanding this, the rendition flights continue, leaving a trail of human wreckage in their jet stream.

Abducted in 2002 by men dressed in black and wearing masks, Binyam Mohamed was blindfolded, shackled and strapped to the seat of a plane that flew him from Pakistan to Morocco. There, he was secretly detained for more than a year. While in captivity, Mohamed's interrogators routinely beat him, breaking his bones and sending him into unconsciousness. During one horrific incident, his genitals were cut 20 to 30 times and hot, stinging liquid was poured into the open wounds.

About 18 months later, Mohamed was blindfolded once again and this time flown to a U.S. detention facility known as the "Dark Prison" in Kabul, Afghanistan. His captors repeatedly banged his head against a wall until he began to bleed, hung him from a pole in his cell, and blasted his cell with the loud recorded screams of women and children. Eventually, Mr. Mohamed was flown to the U.S. Naval Station at Guantanamo Bay, Cuba, where he remains today.

Forty-year-old Italian citizen Abou Elkassim Britel suffered a similar fate when he was handcuffed, blindfolded, dressed in a diaper, and flown from Pakistan to Morocco. Upon arrival, Britel was held incommunicado for eight months and subjected to brutal forms of physical and

CONTINUED ON PAGE 7

# ACLU PETITIONS SUPREME COURT TO REVIEW EL-MASRI LAWSUIT

By Rene Ciriacruz

The ACLU on May 30 asked the United States Supreme Court to review the case of Khaled El-Masri, an innocent German citizen who was kidnapped, detained and tortured by the U.S. Central Intelligence Agency.

The petition is part of the ACLU's effort to get a fair hearing for El-Masri, a victim of the CIA's illegal abduction and detention program known as "extraordinary rendition." Despite the widespread publicity surrounding El-Masri's plight at the hands of the CIA, the U.S. District Court for the Eastern District of Virginia dismissed his lawsuit after the government invoked the so-called "state secrets" privilege.

The district court took the position advanced by the CIA that the simple fact of holding proceedings would jeopardize state secrets. The ACLU argued that in the El-Masri case all the information needed to establish CIA culpability was already public. The U.S. Court of Appeals for the Fourth Circuit last March upheld the U.S. District Court.

The ACLU criticized the government for invoking the state secrets privilege with increasing regularity in an effort to avoid the exposure of illegal and immoral practices. Most recently, it invoked the privilege in an effort to dismiss lawsuits challenging illegal National Security Agency wiretapping.

The landmark lawsuit charges that former CIA Director George Tenet violated U.S. and universal human rights laws by authorizing intelligence agents to abduct El-Masri, beat, drug, and transport him to a secret CIA prison in Afghanistan. (The corporations that owned and operated the airplanes are also named in the case.) Initially arrested in December 2003 in Macedonia, El-Masri alleges he was handed over to the CIA by Macedonian authorities. He was flown to Afghanistan and imprisoned in an American facility notoriously known as the "Salt Pit."

The CIA continued to hold El-Masri incommunicado nearly two months after his innocence was known. Five months after his abduction, El-Masri was, without explanation, released on a hill in Albania, without ever being charged with a crime. German Chancellor Angela Merkel stated in December 2005 that Secretary of State Condoleezza Rice had acknowledged that El-Masri's disappearance and prolonged detention had been a "mistake."

"This administration has invoked the state secrets privilege not to protect national security, but

to protect itself from embarrassment and accountability," said ACLU attorney Ben Wizner, who argued El-Masri's case before the Fourth Circuit last November. "Mr. El-Masri's case should be a powerful reminder that when our government abandons the rule of law, innocent victims suffer the consequences."

In a related development, a special committee of the European Parliament issued an interim report in April 2006 concluding that the CIA has on several occasions illegally kidnapped and detained individuals in European countries. The report also found that the CIA detained and then secretly used civilian airlines to transfer persons to countries like Egypt and Afghanistan, which routinely use torture during interrogations. Members of the European investigative committee came to the United States in May 2006 to meet with the ACLU and members of Congress. A parliamentary inquiry into El-Masri's kidnapping is also going on in Germany. ■

## TORTURE CONTINUED FROM PREVIOUS PAGE

psychological torture. By the time he was released without any explanation or any charges brought against him, he suffered from dizziness and chronic diarrhea. His left eye and ear had been permanently damaged and large portions of his skin had turned black and blue; hair no longer grew in these areas.

On his way home to Italy, Britel was arrested by Moroccan authorities and then tried and convicted under

the most questionable of circumstances. A six-year investigation into his suspected involvement in terrorist activities led an examining judge in Italy to dismiss the prosecution's case against Britel in September 2006, finding a complete lack of evidence. Eighty-seven members of the Italian Parliament have petitioned the president of Morocco to exonerate and release Britel and immediately return him to his home in Italy. Today, he remains imprisoned in Morocco.

Forty-five year old Ahmed Agiza, an Egyptian citizen, was living in Sweden and awaiting a determination on his family's political asylum application when he was secretly apprehended by Swedish Security Police and handed over to CIA agents dressed in dark hoods. After stripping him, inserting suppositories into his rectum, and fitting him with a diaper and blindfold, Agiza was loaded onto an aircraft and returned to Egypt. Once there, he was held in solitary confinement in a tiny prison cell without windows, heat or light. He was interrogated, beaten, and strapped naked to a wet mattress where electrodes were applied to his ear lobes, nipples, and genitals and electric current was applied.

Corporations like Jeppesen don't turn on the electricity that ran through Agiza's body, inflict the beatings suffered

by Britel, or wield the knife that cut into Mohamed's genitalia. Yet their alleged participation in the CIA rendition program makes it possible for these and other individuals to be subjected to cruel, inhuman, and degrading treatment.

"Making Every Mission Possible"—that's Jeppesen's motto. But some missions should never be accomplished, no matter the price. ■

This opinion piece was originally printed in *The San Francisco Daily Journal*.

Maya Harris is the executive director of the American Civil Liberties Union of Northern California.



ACLU-NC Executive Director Maya Harris explains the lawsuit against Jeppesen at a press conference.



ACLU-NC Staff Attorney Ann Brick, with protesters at Jeppesen's offices, says cooperation of U.S. firms makes the CIA's secret program possible.

GIGI PANDIAN

GIGI PANDIAN

# THROUGH OUR EYES: REFLECTIONS FROM YOUTH ACTIVISTS

The Youth Activist Committee of the ACLU-NC is made up of high school students who meet weekly to set the agenda for youth activism. These students are engaged with a dazzling array of issues and build remarkable skills in communication, organizing, and advocacy. Here are some reflections from two of this year's ACLU youth leaders.

## FROM PASSIVE WITNESS TO AGENT FOR CHANGE By Constance Castillo

It is difficult to describe an experience that has altered my opinions, perceptions, outlook, and goals. There is no easy way to express a transformation that's nothing short of taking me from a state of blindness to vision, awakening me from sleep and into reality, moving my mind from political speculation to deep insight.

I entered the summer of 2006 with a surface of shallow understanding. I felt compassionate, but did not fully comprehend what I sympathized with. I knew I wanted to "change the world"; I was confident in my power – although with a naïve perception of whom I would influence and how I would do it. A recommendation from my school's community service director brought me to the ACLU's Youth Activist Committee Summer Trip. The trip was full of information, emotions, and realization; I returned home with a new set of eyes.

Poverty no longer meant a state of poorness; it meant unclimbable ladders, cyclic oppression, and wiping tears with callused hands. Injustice no longer meant a lack of justice; it meant a growing abuse that I could hear and feel crying for my attention.

I reentered the world and began to see more and more imperfections in places that I had previously glanced over. My newfound knowledge manifested itself in my voice through school assemblies and spoken word poetry. I was not satisfied

by simply gaining a greater understanding of social injustices; instead, the awareness pushed me to pursue organizing petitions and protests, as well as furthering involvement in activism.

Throughout the year I continued to learn through Youth Activist Committee meetings, as well as through joining other groups such as Revolution Youth. My dreams of a better world are far from achievement, but I have now at least begun to address them in a productive manner. My goal is no longer to someday be an activist, but instead that my activism will someday trigger change. I have gone from a passive witness, to someone who actively tries to help the victim.

The growth I have experienced in the past year is immeasurable, but immensely valuable. I cannot imagine who I would be without what the Youth Activist Committee has given me, and within all the discontent I now feel towards the condition of our world, I also feel an extreme amount of gratitude for this place that has empowered, educated, and inspired me. The Youth Activist Committee has enabled me to lead a life that I am proud of, and guided me towards a path of activism that I did not know how to reach. I have developed a stronger sense of purpose, and my power as an individual now holds direction. ■

## STRIVING FOR EDUCATIONAL EQUITY By Aurora Castellanos

This year has been full of work and organizing that has been pushing me and has taught me how to change at a personal level. I have been working with Californians for Justice (CFJ) on issues related to educational inequalities. CFJ is currently working on the "Can You See Me in College?" campaign. Our demands are to increase the ratio of counselors to students, have peer to peer counseling, mail and distribute college information, provide college prep courses, and strengthen connections with local colleges.

I have done everything from organizing rallies at city hall and school board meetings, to building coalitions with other organizations, participating at peer exchanges, and attending College Recruitment Network meetings. Through work that I have done at my school, MetWest High School, I have been able to link together organizing with schoolwork. Through school projects I have been able to do recruitment for CFJ. I have also done projects on improving weekly youth meetings at CFJ. I am looking forward to another year where I can keep on growing as an organizer and as a human. ■

**"MY GOAL IS NO LONGER TO SOMEDAY BE AN ACTIVIST, BUT INSTEAD THAT MY ACTIVISM WILL SOMEDAY TRIGGER CHANGE. I HAVE GONE FROM A PASSIVE WITNESS, TO SOMEONE WHO ACTIVELY TRIES TO HELP THE VICTIM."**

**—CONSTANCE CASTILLO**

## EAST BAY HIGH SCHOOL STUDENT WINS NATIONAL ACLU SCHOLARSHIP

An East Bay high school senior, one of 11 nationwide, was awarded the Youth Activist Scholarship by the National ACLU. Jacqueta Beverly, a senior at Tennyson High School in Hayward, will receive a \$4,000 college scholarship in recognition of her outstanding work to protect civil liberties.

Jacqueta has been involved in several civil liberties and social justice issues including the death penalty, military recruitment, economic justice, educational equity, and discrimination against immigrant communities.

Early in her high school career, after discovering the problem of under-funding for California schools, Jacqueta worked with Students Taking Action Now for Democracy (STAND), petitioning the governor and lawmakers in Sacramento to end school under-funding in California.

In her sophomore and junior years, Jacqueta started her own student organization, Action for Social Justice, to fight military recruitment on campus, educating students and faculty members about the "poverty draft" and the targeting of young people of color.

Jacqueta has been a passionate leader within the Youth Activist Committee (YAC) of the ACLU of Northern California's Howard A. Friedman Education Project, which creates opportunities for high school students to examine the Bill of Rights. YAC's youth activists coordinate an annual Youth Rights Conference for hundreds of their peers, facilitate workshops on civil liberties issues, participate in activism projects throughout the year, and are involved in weeklong summer field investigations on subjects of their choice. As a teen leader of YAC, Jac-



queta was chosen to participate in the National ACLU Membership Conference.

Jacqueta hopes to become a lawyer and continue to fight injustice. ■

## WHY ASK WHY?

By Jacqueta Beverly

Who would I be if I never asked "Why?" My curiosity started long before I knew what I could do besides just asking "Why?" or "What I can do to help or change this?" I don't remember saying much of anything else and eventually it became a way for me to figure out just how messed up things are in the world, and how often people's rights are getting violated and stepped on.

My junior year I started a new club for students to take action on different topics that affect our rights. My club, Action For Social Justice, helped me feel like I was doing something that could lead to real change. We worked hard to get military recruiters off our campus. Military recruiters are all over our campus giving students false information and working hard to get us to go and fight in an unjust war. Why?

Through a class assignment I got to know the Stanley Tookie Williams case very well. That led me to get involved with the fight to end the death penalty. My question is, "What makes murder in any form okay?" From there I got involved with the immigrants' rights movement. I went to marches and started doing everything I could to let the government know that what they were planning to do was wrong in so many ways. I know many people personally that this would have affected and I felt like I had to stand with them. I am still working on making my club at school something that will be remembered for taking action to stand up for people's rights and make a difference, even in a small way. ■

—Excerpted from an essay by Jacqueta Beverly

TAKE ACTION ONLINE TO PROTECT CIVIL LIBERTIES: SIGN UP AT [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)

# MURDER VICTIMS' FAMILIES URGE ALTERNATIVES TO THE DEATH PENALTY

By Maria Chavez

Losing a loved one to homicide is a devastating and life-changing event. In Oakland alone, 148 residents were murdered in 2006, leaving behind hundreds of family members and loved ones whose lives were forever changed. As the Campaign Organizer for California Crime Victims for Alternatives to the Death Penalty (CCV), I attend healing circles, support groups, and violence prevention conferences. At these events, I meet survivors of homicide, the victims who are left behind to cope with the loss of their loved ones.

I hear stories of unspeakable tragedies, mothers who have lost a child or, in some cases, more than one child. Lorrain Taylor's twin boys, Obadiah and Albade, were shot as they tried to fix their car on the side of a road in Oakland. They were just 22 years old. It's been seven years since Obadiah and Albade were murdered, and Lorrain still finds it difficult to speak about it.

Lorrain, like many survivors of homicide victims, does not think the death penalty will help her. "The death penalty can only enhance the pain and suffering of those left behind," she says. "If we are to create a safer world and a stronger economy, the emphasis should be on violence prevention, education, conflict resolution, and youth employment. While it is best for the overall community that murderers get life without parole, it has never crossed my mind to add to his family's pain by seeking the death penalty."

California Crime Victims for Alternatives to the Death Penalty is a coalition of families, friends, and loved ones of murder victims who oppose the death penalty. The coalition supports families, friends, and loved ones in telling their stories and being heard. CCV members work to educate the public about alternatives to the death penalty and provide information, resources, and support to other families and friends of murder victims.

Some CCV members are opposed to the death penalty, but others simply feel that there are better alternatives for crime victims, such as life without parole. CCV members recognize that the death penalty process is a traumatizing experience for most families, often requiring them to relive the pain and suffering of the death of their loved one for many years. Life without the possibility of parole provides swift and certain punishment without the endless reopening of wounds, allowing survivors to move on with their lives.

In addition, hundreds of millions of dollars are spent on the death penalty each year. Bringing an end to the death

penalty in California would make millions of dollars available that could be spent on violence-prevention efforts, solving unsolved cases, and increasing victim services. Such programs would actually help meet the needs of victims and prevent people from becoming victims.

One of CCV's most important goals is to provide a platform for the voices of victims who oppose the death penalty, a voice that often goes unheard. It's a common misconception that all victims want and support the death penalty, but CCV members provide another perspective. Through their personal stories of loss, they help educate the community on alternatives to the death penalty.

LaShai Hickman of San Pablo is one of CCV's newest members. Her son, Dominique Hickman, was just 17 when he bled to death on someone's front lawn after being shot. Deputies in the area received two calls reporting gunshots around the time that Dominique was shot; they searched the area but reported nothing "suspicious."

LaShai has struggled following her son's murder. She didn't qualify for bereavement leave and was forced to take time off work without pay. She didn't receive any support from the Victim Compensation Fund because no one told her she was eligible. It's been a little over three months since her son was killed and she is having a difficult time finding support groups to attend.

"I've attended a few support groups, some weren't appropriate," says LaShai. "It's difficult to be part of a grief group where other participants don't really know how to deal with the fact that my son was murdered. I did find a support group that was for the families of murder victims but that group only meets once a month. We have children being killed every day; why are meetings happening only once a month? There are so many of us out here, isolated and suffering."

Through CCV, LaShai is able to connect with other survivors of homicide.

Sadly, LaShai is not alone in her feeling of isolation. In the years following her sons' murders, Lorrain Taylor also witnessed great isolation among victims and saw that many practical needs were unmet. Today, Lorrain runs a monthly support group for victims of violent crime in Oakland and delivers food to victims' homes.

Azim Khamisa is another CCV member who is making a difference locally and nationally. Azim's son, a 20-year-old San Diego University Student, was killed while delivering pizzas. He says, "I decided to become an enemy not of my son's killer [Tony] but of the forces that put a young boy on a dark street holding a handgun. Tony now writes letters from prison that we use in our programs and that we see having a positive effect on other kids. Think of how many kids he may save. That is going to bring a lot more healing than if he had gotten the death penalty."

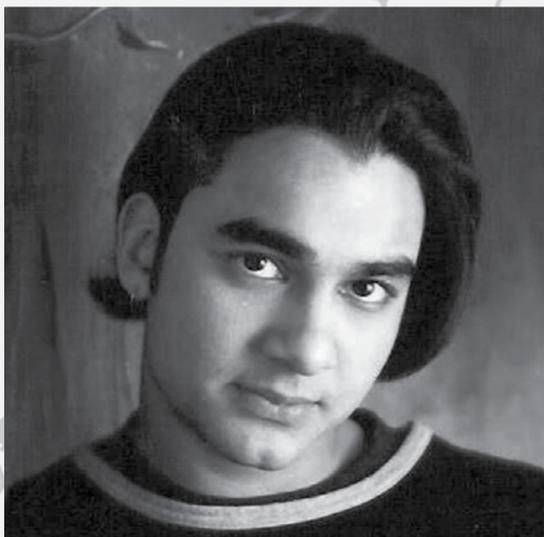
Azim is the co-founder, along with Ples Felix (Tony's grandfather) of the Tariq Foundation, an organization that is committed to ending violence by implementing school based non-violence programs.

CCV invites the friends, families, and loved ones of murder victims to join us. There are many ways to be involved.

Please visit our website, [www.californiacrimevictims.org](http://www.californiacrimevictims.org), or contact us directly at [info@californiacrimevictims.org](mailto:info@californiacrimevictims.org) or (415) 293-6382. ■

*Maria Chavez is the campaign organizer of California Crime Victims for Alternatives to the Death Penalty.*

*California Crime Victims for Alternatives to the Death Penalty is a joint project of the ACLU of Northern California, Death Penalty Focus, and Murder Victims' Families for Reconciliation.*



*Tariq Khamisa was shot while delivering pizza.*



*Azim Khamisa, Tariq's father, opted for healing instead of hate.*



*Lorrain Taylor, whose twin sons were both murdered, now runs a support group for victims of violent crime.*

TAKE ACTION ONLINE TO PROTECT CIVIL LIBERTIES: SIGN UP AT [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)

# ALL OUT FOR GAY PRIDE

From tots in strollers to seniors marching along, the ACLU-NC's contingent of supporters, activists, staff and friends joined San Francisco's LGBT Pride Parade on Sunday, June 24 for a fun-filled day of celebrating victories and re-doubling our commitment to equal rights. Some 60 people made up the contingent, including recent clients and ACLU activists who came all the way from Davis to join the parade. It's a longstanding ACLU-NC summer tradition to join what may be the largest and grandest LGBT pride parade in the nation. The first gay pride parades were held in New York, San Francisco and Los Angeles June 28, 1970 to mark the first anniversary of the Stonewall Riot in New York.

"It was so exciting and energizing to see such a diverse group of ACLU supporters standing together, proud of our work, proud to be part of the parade, and deeply committed to the work we all must continue to do to ensure equality and fairness for the LGBT community," said Maya Harris, ACLU-NC Executive Director.

Marching between the San Francisco Human Rights Commission and the SF Lesbian/Gay Freedom Marching Band, the ACLU-NC contingent wore T-shirts specially-designed for the occasion and distributed beads, ACLU



MICHAEL WOOLSEY

membership card stickers, and materials about our LGBT rights work.

The contingent gathered at ACLU-NC's Drumm Street headquarters for a pre-parade breakfast of bagels, fruit, coffee and orange juice, a short program about the organization's LGBT advocacy, and some time to chat with fellow marchers before walking together to the parade site.

for health care access, marriage equality, parenting, prison family visitation, and privacy rights. The crowd enthusiastically showed appreciation for the ACLU's historic role in upholding gay rights. "As I walked down Market Street in the ACLU contingent while holding my partner's hand, I was not prepared for the people in the crowd who cheered wildly and yelled, 'Thank you! Thank you! Thank you for protecting my freedom!' said Jeff Vessels, Director of the ACLU-NC's Campaign for the Future.

"I turned to Gil and muttered, 'I feel so moved—I'm speechless.' He squeezed my hand and said, 'The ACLU deserves the gratitude.' For the next six blocks, we waved and applauded the crowd and shouted 'Thank YOU' in return," Vessels added. ■



LAUREL JAMES



MICHAEL WOOLSEY



MICHAEL WOOLSEY



LAUREL JAMES

ACLU-NC staff, family and friends, cheer and get cheered at the San Francisco Pride Parade.

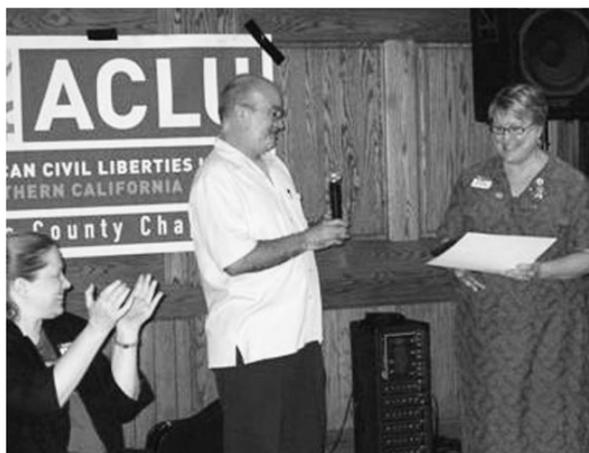
## YOLO CHAPTER EVENT MARKS PRIDE DAY

By Kiran Savage-Sangwan

The Yolo County ACLU Chapter celebrated Pride Month with a dinner and an award ceremony on June 30. At the dinner attended by approximately 55 people, the chapter gave the 2007 Achievement Award to County Clerk Recorder Freddie Oakley, in recognition of her support for Marriage Equality. Oakley in February issued same-sex couples "Certificates of Inequality," which read in part, "I issue this Certificate of Inequality to you because your choice of marriage partner displeases some people whose displeasure is, apparently, more important than principles of equality." Oakley was the first County Clerk Recorder to make such a statement against marriage discrimination, issuing 50 certificates in one week, despite some strong opposition. Oakley also received at the event certificates of recognition from both State Senator Michael Machado and Assemblywoman Lois Wolk.

Alex Cleghorn, Staff Attorney at the ACLU-NC and the national ACLU LGBT Rights and AIDS Project, spoke about the Employment Non-Discrimination Act (ENDA), a pending federal legislation that would prohibit discrimination in employment based on a person's sexual orientation or

gender identity. It is currently legal in most of the country for an employer to fire workers solely because of their sexual orientation. ENDA would ban the discriminatory hiring,



Freddie Oakley, Yolo County clerk recorder (right), receives her award. Chapter Chair Natalie Wormeli and Chapter Board Member Paul Gerowitz cheer her on.

firing, promotion, and compensation practices that are currently quite pervasive.

Mary Stroube, author of "I Do, Don't I?", speaking on the history of marriage, said presidential strategist Karl Rove was completely wrong when he said that nothing about marriage has changed in 6,000 years. Stroube mentioned that she and her partner were married in Canada, but when they crossed back over the border into the United States they "went from being married to being nothing."

Maddy Ryen, founder of the Emerson Junior High School Gay Straight Alliance, shared her experience as an LGBT young person, saying, "Davis is an amazing place to grow up queer." She also said, "There are lots of loud voices out there speaking against our rights, and the feeling of standing alone can be absolutely overwhelming at times." Ryen said she hopes that when she decides to get married she can get in her car, drive to Woodland and get a real marriage license from Freddie Oakley, just as her older sister had done a few weeks earlier. Ryen ended by thanking Oakley for giving her hope and showing everyone that "queer youth are not without allies." ■

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# CHAPTERS MOBILIZE TO MOVE POLICE OVERSIGHT BILL TO CRUCIAL WIN

By Alicia Walters

Over the past several weeks, ACLU-NC chapters throughout our region have been partnering with local organizations to stir up a groundswell of support for SB 1019—a bill that would restore civilian oversight in sustained cases of police misconduct. By leading in-district meetings with key senators, garnering endorsements from local organizations, and putting pressure on their elected officials through faxes, letters, emails and phone calls, chapter activists were instrumental in getting this crucial bill through the Senate in early June.

As a priority for the ACLU-NC, the campaign to restore public oversight has provided an opportunity for chapters to work on passing legislation, building capacity, and strengthening community ties. Lee Lawrence, a board member of the Mt. Diablo Chapter, quickly brought together representatives from a diverse group of organizations to advocate for SB 1019 in her district. “Chapters are critical in bringing these issues home to local communities,” she says. “It was because of the diversity on our board that we could bring a diverse group of representatives to our meeting.”



Hamid Grinage, a long-time advocate of improved community-police relations and part of the Paul Robeson Chapter in Alameda County, believes that this bill is essential to ensuring that the public has a say in how their communities are policed. “Without police accountability,” he says, “citizens feel powerless to speak out when rights have been violated, and this fosters mistrust between the police and the communities they serve.” While lobbying a representative of Senator Ellen Corbett, Grinage emphasized the importance of people having a public venue to voice their concerns. His voice was heard as Senator Corbett’s staff unanimously recommended support to the senator, who voted “AYE” when the time came.

From downtown Oakland to the Central Valley, local coalitions convinced senators from both sides of the aisle to stand behind the bill. The newly formed Shasta-Tehama-Trinity Chapter in Redding successfully lobbied their Republican senator through a flood of calls to his district office. Activists Natalie Wormelli and Kathy Schick held two separate meetings with Senator Mike Machado’s representatives, in both

## CHAPTER EVENT

### BARK+ CHAPTER

**Annual meeting:  
OCTOBER 7, 2007**

Featuring a presentation by ACLU-NC Technology and Civil Liberties Policy Director Nicole Ozer, entitled “Update on Government Surveillance and Intrusion.”

For more information contact Jim Hausken at (510) 558-0377 or [jhausken@redshift.com](mailto:jhausken@redshift.com).

Vacaville and Stockton. Seasoned lobbyists cited constituent pressure on Senator Joe Simitian as the reason for his surprise support just hours before his vote was to be registered. Every phone call, fax or email counted; we needed 21 votes to pass the bill and the final outcome was 22-11.

“It helps for the state senators to experience the ACLU as a local presence as well as a national organization and to know we are watching and caring about what they do,” says Lawrence, of the Mt. Diablo Chapter. The ACLU-NC is looking forward to future opportunities to collaborate and make vital changes in our region by creatively involving chapter activists and members in our dynamic priority campaigns. ■

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

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

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

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

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

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

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

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

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

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

**SAN JOAQUIN COUNTY CHAPTER MEETING:** Regular meetings. Contact John Williams for more information: [jandjw1@netzero.com](mailto:jandjw1@netzero.com).

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

**SANTA CRUZ COUNTY CHAPTER BOARD MEETING:** Fourth Monday of every month at 7 p.m. For more information contact [info@aclusantacruz.org](mailto:info@aclusantacruz.org) or visit [www.aclusantacruz.org](http://www.aclusantacruz.org).

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

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

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

### NEW CHAPTERS ORGANIZING

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

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

**SACRAMENTO COUNTY CHAPTER:** Contact Jim Updegraff for more information: [updegraf@pacbell.net](mailto:updegraf@pacbell.net).

**SHASTA AND TRINITY COUNTIES CHAPTER:** Regular meetings are held in Redding. Contact Dan Yost, chair, for more information at [donald@snowcrest.net](mailto:donald@snowcrest.net) or (530) 241-8421.

### CAMPUS CLUBS

**BERKELEY CAMPUS ACLU:** Weekly meetings during the regular school year. Contact Devin McCutchen for more information at [devin\\_mccutchen@berkeley.edu](mailto:devin_mccutchen@berkeley.edu).

**SANTA CLARA UNIVERSITY LAW:** Contact Allison Hendrix for more information at [hendrixallison@gmail.com](mailto:hendrixallison@gmail.com).

**SAN JOSE STATE UNIVERSITY:** Contact Armineh Noravian for more information at [SJSU@hotmail.com](mailto:SJSU@hotmail.com).

**UC SANTA CRUZ, ACLU-SLUGS:** For meeting schedule, email [ACLUslugs@riseup.net](mailto:ACLUslugs@riseup.net).

# ASK THE EXPERTS!

## THE ROBERTS COURT, WOMEN'S HEALTH, AND THE FEDERAL ABORTION BAN



Maggie Crosby

### WHAT DID THE SUPREME COURT DO?

By a 5-4 vote, the court upheld the “Partial Birth Abortion Act of 2003,” the first ever federal criminal law on abortion. The Act bans intact dilation and evacuation (IDE), a variant of the most common method of performing second trimester abortions (D&E), even when it is the safest way to protect the woman’s health. According to prestigious medical organizations, including the American College of Obstetricians and Gynecologists and the California Medical Association, IDE is safer for some women than any available procedure because it minimizes the risk of perforation and infection.

### DOES THE RULING JEOPARDIZE WOMEN'S HEALTH?

Yes. For the first time since *Roe v. Wade*, the Supreme Court has allowed the government to restrict abortion with no exception for a woman’s health. Decisions since *Roe* have uniformly insisted that the government may not jeopardize the pregnant woman’s health, even after fetal viability. (Despite its politically concocted name, the Act bans IDE abortions long before viability.)

Overruling its own precedent from 2000, *Stenberg v. Carhart*, which struck down a virtually identical state law, the court ruled that where the medical community disagrees about the relative safety of a particular abortion procedure, the government may choose the opinion it favors and ban the procedure. In *Carhart*, the court had ruled that where doctors disagreed whether a particular procedure was safer for pregnant women, the Constitution required the law to allow options that may be necessary to preserve women’s health. In sports terms, a tie used to go to the woman’s health. Now, a tie goes to the politicians. In fact, politicians may rely on junk science.

### HOW DOES THE COURT JUSTIFY RESTRICTING WOMEN'S ACCESS TO ABORTION?

The majority emphasizes the government’s “profound respect” for the fetus. This interest exists from the outset of pregnancy and thus justifies restricting early first trimester abortions as well as second trimester abortions. Indeed, the interest is so strong that even a symbolic expression of respect for the fetus—after all, the federal ban doesn’t “save” any fetuses, but simply relegates the woman to a riskier abortion procedure—justifies restricting access to abortion.

The majority also adopts a wholly new rationale for restricting access to abortion: to protect women who choose abortion from subsequent regret, emotional damage and depression. The decision thus enshrines in federal constitutional law the theme of anti-choice activists, that “abortion harms women.” This assertion is astonishing for two reasons.

First, it is empirically false (as President Reagan’s Surgeon General Everett Koop, an abortion opponent, acknowledged after reviewing the scientific literature on the emotional effect of abortion). The majority acknowledges that it has no “reliable evidence” of psychological harm, but asserts that it is apparent to the five men who wrote the decision that women will suffer regret from having the abortion.

**O**n April 18, the U.S. Supreme Court voted 5-4 to uphold the first ever federal criminal law on abortion. The law exposes doctors to incarceration, fines and civil suits for performing a procedure taught in medical schools that is safe and, sometimes, essential. ACLU expert Margaret Crosby dissects the ruling:

As Justice Ginsburg points out in her impassioned dissent, the government does not have the authority to limit women’s options to protect them from making “bad” decisions. (Cases that Justice Ginsburg litigated as head of the ACLU’s Women’s Rights Project resulted in Supreme Court rulings discrediting this patriarchal rationale for restricting women’s options). Of course, women may make decisions they later feel were wrong, but women are not oppressed by having choices; they are oppressed by being denied choices.

### WHAT'S THE OUTLOOK FOR ROE V. WADE?

This first post-O’Connor opinion from the Roberts Court indicates that *Roe*’s foundations are even shakier than pro-choice advocates had feared. The opinion casually reverses the court’s precedents (particularly the established principle that women’s health interests must be paramount) and recognizes new justifications for restricting access to abortion that have no logical limitation. It is also revealing that Justice Kennedy’s opinion refers to major Supreme Court decisions as “precedents we assume to be controlling”—a wink and nod to anti-choice advocates that the majority is not accepting settled law.

Two justices (Scalia and Thomas) repeated their view that *Roe* should be overruled; new Justices Roberts and Alito, while not joining in that call, expressed no disagreement with it. This decision is apparently neither the last blow to *Roe* nor the last restriction on abortion this Court is prepared to uphold. Justice Kennedy openly expresses his disgust with the most common form of second trimester abortion and his view that the importance of the bond between mother and child makes any abortion problematic. Justice Ginsburg openly accuses the Court of restricting fundamental rights simply because the Court’s composition has changed.

### WHAT WILL HAPPEN IN THE STATES?

The decision invites states to pass new restrictions on access to abortion.

- We may see similar laws banning IDE abortions. The purpose of these state laws (which basically replicate the federal ban in effect in all states) is to increase the penalties and give local district attorneys authority to prosecute doctors.
- We anticipate that legislatures, picking up on the court’s “abortion regret” theme, will pass laws increasing waiting periods before abortion, requiring biased counseling (telling women they will suffer emotional harm following abortion), and compelling women to view fetal images such as sonograms.

- We expect some states to test the shaky foundation of *Roe* by passing South Dakota-type criminal abortion bans, in the hope that the supreme courts will use a subsequent legal challenge to overturn *Roe*.

- And, on a more encouraging note, the decision should spur pro-choice advocates to introduce bills placing *Roe v. Wade* in state law. The governor of New York has introduced a bill in the state Legislature to update its abortion law, modeled after California’s Reproductive Privacy Act, which codifies *Roe* standards. A federal Freedom of Choice Act codifying *Roe* has also been introduced in Congress.

### WHAT WILL HAPPEN IN CALIFORNIA?

The federal abortion ban makes IDE a crime in California as well as every other state, because a federal statute supersedes our state Constitution and laws under the Supremacy Clause of the United States Constitution. Thankfully, because California’s Constitution contains an explicit right to privacy that protects childbearing decisions independent of and more broadly than the federal Constitution, state and local governments cannot pass laws outlawing abortion here. However, we anticipate that attempts will be made to restrict or burden access to abortion in the California Legislature, and we will work with our coalition partners to stop anti-choice bills. In the event that we are unsuccessful, the ACLU will file a lawsuit to challenge any substantial restrictions on access to abortion in California. ■

Maggie Crosby is a staff attorney at the ACLU-NC and an expert on women’s rights issues.

## DONATE YOUR VEHICLE TO THE ACLU

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THE ACLU FOUNDATION OF NORTHERN CALIFORNIA HAS THE SOLUTION!

We have teamed up with Car Program LLC, a company that specializes in processing vehicle donations for nonprofit organizations.

Car Program will arrange for vehicle pickup (running or not), handle title transfer, sell the vehicle at auction or to a salvage yard, generate a receipt entitling you to a tax deduction, and pass a portion of the net proceeds on to the ACLU Foundation of Northern California.

You get a tax deduction, avoid the headache of selling a used vehicle, and enable the ACLU Foundation to expand our commitment to protecting civil liberties.

When you’re ready to donate, if you have relatives or friends with vehicles to donate, or if you have any questions, simply contact Denise Mock at (415) 621-2493 x334 or [dmock@aclunc.org](mailto:dmock@aclunc.org). ■