THE STATE OF MARRIAGE EQUALITY

On May 26, the civil rights of lesbian and gay Californians suffered a major setback: the California Supreme Court in a 6 to 1 decision upheld Proposition 8, the ballot measure that eliminated the right of same-sex couples to marry. The ACLU, National Center for Lesbian Rights, and Lambda Legal represented Equality California and six same-sex couples in the case, Strauss et al. v. Horton et. al.

In a strongly worded dissent, Justice Carlos Moreno stated, “The rule the majority crafts today not only allows same-sex couples to be stripped of the right to marry that this court recognized in the Marriage Cases, it places at risk the state constitutional rights of all disfavored minorities. It weakens the status of our state Constitution as a bulwark of fundamental rights for minorities protected from the will of the majority.

There was some silver lining to the decision: the Court unanimously ruled that the more than 18,000 marriages that took place between June 16 and November 4, 2008 will continue to be fully valid and recognized by the state of California. The decision also reaffirmed the Court’s prior holding that sexual orientation is subject to the highest level of protection under the California Constitution, and the protections currently afforded by California’s domestic partnership law are therefore constitutionally required.

Immediately after the ruling, leading LGBT rights groups vowed to return to the polls to restore the right to marry for same-sex couples. “The current situation in California is fundamentally unfair, and it is deeply disappointing that the Court let this injustice stand,” said Elizabeth Gill, ACLU-NC Staff Attorney.

“But now that the Court said that same-sex marriage may be decided at the ballot box, the right to marry can also be restored at the ballot box.” Support for marriage equality continues to build, Gill noted. While in 2000, Proposition 22 (which statutorily banned same-sex marriage) garnered 61% of the vote, Proposition 8 passed with a scant 52%. And in just the last few months, four more states have legalized marriage for same-sex couples—for a total of six states.

Before we go back to the polls in California, though, we have a lot of hard work to do. To create a majority for marriage, LGBT people and close allies are first going to have to talk to close friends and family about their lives and their relationships, and why this fight matters. To help win marriage back, go to www.eqca.org.

HIGH SCHOOL STUDENT TAKES ON ANTI-GAY HARASSMENT—AND WINS

In May, the American Civil Liberties Union reached a settlement agreement with the Vallejo City Unified School District on behalf of a high school student, Rochelle Hamilton, who faced anti-gay harassment and discrimination from teachers and school staff and was required to participate in a school-sponsored “counseling” group designed to discourage students from being lesbian, gay, bisexual, or transgender.

CONTINUED ON PAGE 5
LETTER FROM THE EXECUTIVE DIRECTOR
MARKING 75 YEARS

My five-year-old son Cyrus has always been fascinated by age. To family and strangers alike, he routinely asks “How old are you?” If the answer is over 70, as in the case of his grandparent, Cyrus will conclude, with respect and awe, “Wow, that’s old!”

So now that the ACLU of Northern California is celebrating its 75th anniversary, Cyrus is sure to be impressed. And in a state that is itself only 150 years old, rightfully so.

As old as the ACLU is, it is also incredibly fresh and fast-moving. The ACLU is always on the front lines of social change—the places where rights are in need of defense, and where we can advance freedoms.

Our history and our future are linked by persistence and vision: our current work to defend the rights of lesbian, gay, bisexual and transgender youth and to reach the tipping point for marriage equality, for example, is inextricably tied to the achievements we have made in confronting discrimination, violence, police raids, and employment discrimination against gays and lesbians since the 1950s.

The same is true of the ACLU’s efforts to press for checks on the power of government during times of peace—and war. Just as we defended the rights of Japanese Americans during WWII, you can read in our Q&A with ACLU attorney Ben Wizner on page 8 about why it is so important for the ACLU to press for accountability and justice on behalf of Middle-Eastern, Arab, and Muslim communities in this century.

And the achievements we have made in protecting free speech and in strengthening the privacy rights of Californians continue to echo forward in the high-tech era, as we defended these rights in the age of Web 2.0, DNA technology, and, as you will read about on page 4, the misguided drug testing of students.

What is it that makes the ACLU so enduring and agile? We draw on timeless principles, and we apply them in a fast-moving and ever-changing society. We also draw together people and we apply them in a fast-moving and ever-agile? We draw on timeless principles, and we apply them in a fast-moving and ever-changing society. We also draw together people and we apply them in a fast-moving and ever-agile? We draw on timeless principles, and we apply them in a fast-moving and ever-changing society. We also draw together people and we apply them in a fast-moving and ever-changing society. We also draw together people and we apply them in a fast-moving and ever-changing society. We also draw together people and we apply them in a fast-moving and ever-changing society.

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Stay tuned in the next ACLU News for an announcement of the Campaign for the Future, which will enable the ACLU to purchase its first permanent home in Northern California and will fortify the work of the ACLU in key states throughout the country.

Abdi Soltani
Executive Director

IN THEIR OWN WORDS:
REFLECTIONS FROM CARD-CARRYING MEMBERS

“I first heard about the ACLU in 11th grade in my constitutional history and law class. My teacher gave us a lot of cases to study that involved the ACLU and it made a big impact on me. I was thrilled when I was hired as the ACLU-NC field representative in the early 1990’s. I got to see firsthand the level of commitment chapter volunteers have. Later, as director of the ACLU-NC’s Friedman Education Project, I felt honored to share the lives of some of the most brave and wise young people I have ever met.

The ACLU’s crucial role was brought home to me back in the 1990s, where California was preparing for its first execution since the death penalty had been reinstated. I saw how hard everyone at the ACLU fought to save Robert Alton Harris from execution, and it made me proud to be a part of this critical organization.

I donate regularly to the ACLU because regardless of who holds political power in our country, there will always be the temptation to misuse it. So we need the ACLU to monitor those in power and keep safeguards in place. And our responsibility as donors and activists is to ensure that the ACLU is strong and healthy enough to do its job well.”

Nancy Otto
ACLU donor and artist
San Francisco

A SPECIAL THANK YOU:
2009 BENEFACTORS EVENT

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. This event is our way of saying thank you and offering an inside look at the critical work made possible by the Freedom Circle’s generous support. This year’s event was all about celebration! We marked the ACLU-NC’s 75th Anniversary and toasted our new Executive Director, Abdi Soltani. Soltani, along with Board Chair Nancy Pemberton and Lucas Guttentag, Director of the ACLU Immigrants’ Rights Project, discussed the ACLU’s work on immigrant rights, past and present—and what lies ahead.

To learn more about joining the Freedom Circle, please contact Cheri Bryant, Development Director, at cbryant@aclunc.org.

LEFT: Abdi Soltani with Jeff Justice and a fellow guest. CENTER: Staff Attorney Cecillia Wang enjoys a laugh with Board Member Clara Shin and former longtime Board Member Davis Riemer. RIGHT: Ruth and Jerry Varek strike up a new friendship with Raj Desai and Bobby Chatterjee.

NEW STAFF AT THE ACLU-NC

Linda Rapp joined the ACLU-NC in April as the Director of Foundation Support. Rapp hit the ground running and is working closely with the litigation and policy staff to secure grant funding for the ACLU-NC’s major issue areas.

Rapp comes to the ACLU-NC with over ten years of grant-writing experience at the San Francisco Zoo and a local non-profit that serves homeless and low-income families. But Rapp’s real passion is civil liberties—she has volunteered with the ACLU-NC since the late 1990s. “I can’t believe I’m being paid to work on the issues that matter most, with the organization that is always leading the fight.”

Abdi Soltani
Executive Director

ACLUnews
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Membership ($20 and up) includes a subscription to the ACLUnews. For membership information call (415) 621-2493 or visit www.aclunc.org.

Nancy Pemberton
Abdi Soltani
Laura Saponara
Gigi Pandian

ACLU Board Chair
Executive Director
Designer and Production Manager

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

3 | ACLU DEFENDS FREEDOM CANT CARRY PROOF FILED
GETTING SMART ON CRIME COULD HELP SAVE STATE BUDGET

By Francisco Lobaco

The seemingly never-ending state budget dilemma has completely preoccupied legislative affairs in Sacramento this year. Our legislators have been forced to come face to face with a budget shortfall of $26 billion even after dramatic cuts were made in February to close the $40 billion gap. Unable to raise revenues because of the refusal of the Republicans and the Governor to consider new taxes, the legislature has been forced to make drastic reductions to existing state programs.

You have read about the billions in cuts to education, along with proposals to eliminate Cal-Works, health care for poor children and college grants for students, among other severe cutbacks. The legislature is unlikely to completely eliminate the most important of the safety net programs, but the consequences of the economic downturn will impact all Californians and be felt most severely by those most in need.

Now for the glimmer of hope: for the first time in memory, it appears the legislature will be making significant cuts to the Department of Corrections. It’s about time. Shortly before I began my tenure as an ACLU lobbyist, the prison population was 59,000 inmates. Now it is just under 170,000. California is spending $10 billion annually on our prison system, more than double what was spent just five years ago.

As reported recently by the Pew Center on the States’ Public Safety Performance Project, for the first time in history more than one in every 100 adults in America are in jail or prison. In California, almost two-thirds of the people sent to state prison have been convicted of drug and property crimes. The report concludes that, “For all the money spent on corrections today, there hasn’t been a clear and convincing return for public safety. More and more states are beginning to rethink their reliance on prisons for lower-level offenders and finding strategies that are tough on crime without being so tough on taxpayers.” Fiscal realities may finally motivate elected officials to come “smarter on crime.” In California, the ACLU actively lobbied for parole and sentencing reforms as part of the budget solution. Any dollar saved could be allocated for more pressing social needs. (See the companion article on this page on our efforts to suspend the death penalty)

The latest indications are that the budget of the Department of Corrections will be cut by approximately 10%. Some of the proposed “savings” are problematic—cuts to inmate vocational and educational programs—but others will come from legitimate reforms, including parole reforms intended to lower our recidivism rate. (The recidivism rate in California stands at 70%, by far the worst in the country.)

The Governor has also proposed reducing certain low-level crimes, such as petty-theft with a prior conviction, from a “wobbler” to misdemeanor status, thereby eliminating state prison time for these offenses. (There are currently 2,400 inmates serving time in our state prisons for petty theft.) While no one should expect significant sentencing reforms from the Legislature or the Governor anytime soon, these initial reforms are important steps in developing a fairer and more just system.

THOUSANDS OF REASONS TO END THE DEATH PENALTY

By Laura Saponara

Hundreds of people traveled to Sacramento from all corners of the state on June 30 to offer impassioned and often intensely personal testimony about why they believe the time has come to end California’s death penalty system.

The occasion was the California Department of Corrections and Rehabilitation’s (CDCR) invitation to the public to comment on the lethal injection procedures used by the prison system to kill those who have been condemned to death.

The ACLU-NC, Death Penalty Focus and many other dedicated allied organizations spurred more than 7,000 individuals and dozens of professional, religious, and non-profit organizations to submit written comments to the CDCR prior to the hearings. Governments and human rights organizations weighed in from places like France, Puerto Rico, Italy and Togo, the nation that most recently abolished the death penalty.

Much of the testimony was powerful and poignant, fueled by arguments as varied as the speakers. Psychologists, former prison officials, family members of murder victims, people of faith, and people who have witnessed and assisted in executions—each read a heartfelt statement into the record, often to applause and occasionally to tears from the crowd in the hearing room.

Many of the activist-speakers drew upon international concepts of human rights, calling for California to rid itself of the company of the world’s most outcast executioners—Saudi Arabia, Syria, China and Iran. Others touched on the psychological toll on family members of both victims and of the condemned, who wait years and years in anxious expectation and who are often treated poorly by the justice system.

Speakers representing churches, temples and synagogues around the state spoke against the practice of denying inmates access to a chosen spiritual advisor during the final moments leading to execution, a violation of religious freedom. Members of the media testified against CDCR regulations that severely restrict press access and also violate the First Amendment.

Others expressed outrage at the failure of prison officials to disclose the total cost of executions, as is required by law. Each speaker was given three minutes. In six hours of testimony, only two people rose to speak in favor of lethal injection.

The CDCR is required to respond to each of the arguments presented during the public comment period. Representatives from the CDCR were in the room but could not be identified. More noticeable was the healthy turnout of plainclothes police officers sent to observe the proceedings, presumably to guard against angry outbursts or physical violence. None occurred.

Executions in California have been suspended for the past three years, in part due to legal challenges by the ACLU and others who believe that the lethal injection procedure is unconstitutional, and that the state’s past handling of executions has demonstrated serious systemic problems. Governor Schwarzenegger plans to resume executions, even though the death penalty system will cost us approximately $1 billion over the five years to come.

Michael Rolfus of Berkeley was one of hundreds of Californians who traveled to Sacramento and testified against the death penalty in July. Below is an excerpt from his comments.

Aft3r losing the battle to save my father-in-law from the cold, cruel and secretive system of state-sponsored killing in China, my wife and I moved to the US and hoped to live in a place that cherishes modern values and human rights, a place where primitive forms of justice are things of the past.

But it is very clear to me now that there are alarming parallels between the U.S. and Chinese death penalty systems. California still clings to the primitive practice of killing its own citizens, depriving them of their universal right to life, and perpetuating violence and despair in a society that already suffers too much from both. California could be part of a worldwide movement toward a more humane and civilized future.

Instead, the state is busy considering procedures that would degrade and traumatize citizens and families. Such a commitment to a barbaric system of justice is part of the reason that the U.S. State Department’s intervention in the case of my father-in-law lacked credibility. Why would China listen to the human rights concerns of a country that also tortures and executes?”

—Michael Rolfus, Berkeley

The writer’s father-in-law, We Weihan, was executed by the Chinese government last year, by gunshot and without warning, after four years in detention.

NOT A CARD-CARRYING MEMBER? JOIN ONLINE AT WWW.ACLUNC.ORG

A CLU BECAUSE FREEDOM MATTERS

| 3 |
JOIN THE MATH TEAM, TAKE A DRUG TEST?

Just weeks before she graduated from her Redding high school, Brittany Dalton’s flute ensemble won at a prestigious statewide competition. An accomplished musician throughout high school, Brittany would get to school early to have extra practice time. But her school tried to keep her from playing in this competition—the last of her high school career. Why? She refused to submit to a district-wide suspicionless drug-testing policy.

Brittany felt strongly that it was a serious privacy violation. A Superior Court Judge agreed and granted the ACLU-NC’s request for a preliminary injunction to halt the invasive policy.

ACLU-NC filed suit against the Shasta Union High School District in December 2008, charging that its policy of random drug testing for students participating in competitive school activities, like marching band, math club, and mock trial, violates the California Constitution. The suit is on behalf of students Brittany Dal-ton, Benjamin Brown and Jesse Simonis, and their parents.

Under the policy, students selected for testing were pulled from class, marched to a bathroom, and required to urinate in a cup while a monitor stood outside the stall listening. Brittany, who just turned 18 following graduation, was concerned that being forced to urinate while some one listened outside the door at school would be extremely invasive and uncomfortable. She wasn’t worried about the test result— Brittany has a serious heart condition, which makes it dangerous for her to use any drugs, smoke cigarettes, or drink alcohol.

Brittany’s father offered to have her tested privately. School administrators ignored this, and barred her from playing in band competitions.

The judge’s ruling came just in time, only days before the competition— the last of her high school career. Why? She refused to submit to a district-wide suspicionless drug-testing policy.

“Students shouldn’t be treated like suspects because they want to play in the school band,” said ACLU-NC Staff Attorney Michael Rieder. “This kind of mandatory testing impedes students’ ability to participate in a number of student activities and intrudes on their privacy.” Schools already have the authority to test students suspected of using drugs.

Another student, Jesse Simonis, joined Future Farmers of America (FFA) while enrolled in an agricultural biology class that required him to raise a hog to sell at a local fair. A school administrator told Jesse he would be kicked out of FFA if he did not submit to the test. Jesse eventually did so. He tested negative.

Shasta County Superior Court Judge Monica Masslow wrote in her ruling, “The district’s goal of drug-free schools is admirable and commendable. However, the policy must be consistent with the California Constitution and the California Supreme Court cases by which this court is bound.”

The district has insisted the policy prevents drug use. In fact, the policy targets young people who are least likely to use drugs. It may also deter students from participating in the types of healthy extracurricular activities that help them to steer clear of drugs.

No evidence has suggested a drug problem in the Shasta Union High School District that would justify the invasion of privacy inherent in the district’s policy.

Jesse began his junior year in the fall. Brittany and Benjamin continue their career in music. Jesse and Benjamin will remain involved in the suit along with their parents. ■
marks 75 years that the ACLU of Northern California has been fighting against police and government repression; standing up for the rights of the powerless; and forging an enduring regional and national organization to defend the constitutional rights of all.

Here we have taken the opportunity to excerpt highlights of the battles we have waged in defending fundamental rights and freedoms—from the Depression Era through World War II, McCarthyism through the Free Speech Movement, to the challenges wrought by 9/11. We invite you to look at these struggles through the eyes of ordinary people who risked a great deal—often their livelihoods and occasionally their lives—to take a stand for freedom.

The history of the ACLU-NC is a history of the major struggles of Californians to preserve and expand our basic freedoms.

Over the following four pages, learn about the ACLU-NC’s history during the past 75 years, both through select personal stories of courageous individuals, and through an overview of our work across the decades, told by Elaine Elinson and Stan Yogi.

**CIVIL LIBERTIES HEROES AND HEROINES**

The courage of some ACLU-NC clients—like Fred Korematsu and Lawrence Ferlinghetti—is widely recognized far beyond Northern California. But there are many people that the ACLU-NC has represented whose willingness to fight for civil liberties is not as well-known. Here are just a few of the unsung heroines and heroes who have helped to preserve rights for all of us:

**Charlotte Gabrielli**, a Jehovah’s Witness, was nine years old in 1936, when she was suspended from Fremont Elementary School in Sacramento for refusing to say the Pledge of Allegiance. The ACLU-NC supported her, and though the California Supreme Court ruled against her, in 1943 the U.S. Supreme Court declared the mandatory flag salute unconstitutional.

**Sol Nitzberg and Jack Green** organized apple orchard workers for better wages and working conditions. Anti-labor vigilantes, aided by off-duty law enforcement personnel, tarred-and-feathered them and forced them to walk the midnight streets of Santa Rosa. The ACLU-NC investigated and publicized the incident to draw attention to frequent and violent attacks on labor organizers in the 1930s.

**Dom Sallitto**, an Italian immigrant, was threatened with deportation in 1938 for his political activities. The ACLU-NC prevented his deportation, and he was granted U.S. citizenship in 1954. Dom and his wife Aurora became lifelong activists with the ACLU, and, as octogenarians, were awarded the Lola Hanzel Courageous Advocacy Award for their volunteer service with the Santa Clara Chapter.

**CONTINUED ON PAGE IV**
WARTIME HYSTERIA AND INTERMENT

The outbreak of World War II brought new challenges for the ACLU-NC. Carrying on the tradition of the national ACLU, which was founded to defend conscientious objectors (COs) during World War I, the ACLU-NC fought for the rights of COs, including atheists who opposed the war on moral, as opposed to traditional religious, grounds. The affiliate also sued on behalf of peace groups to use public facilities for meetings and anti-war rallies.

But one of the proudest episodes of ACLU-NC history was our challenge to the wartime relocation and forced detention of more than 120,000 Japanese Americans. In 1942, San Leandro draftsmen Fred Korematsu was jailed for refusing to obey military orders that all Japanese Americans report to relocation centers.

But in 1944, the high court upheld Korematsu’s conviction and the wartime measures on the grounds of military necessity. It took four decades, intensive research, and a team of lawyers led by the children of internees to have Korematsu’s conviction overturned by U.S. District Court Judge Marilyn Hall Patel in 1983.

The ACLU-NC represented Korematsu all the way up to the United States Supreme Court, arguing that the exclusion and detention laws violated basic constitutional rights.

COLD WAR, MCCARTHYISM, AND CENSORSHIP

The end of the war presented new dangers for civil liberties as the Cold War on the home front gave rise to a new era of political repression.

The ACLU-NC defended hundreds of victims of federal and state “loyalty and security” programs, and led opposition to the witch-hunting of congressional and state legislators.

After the House Un-American Activities Committee (HUAC) held widely publicized hearings in San Francisco where labor leaders refused to testify and protesters were hosed down the steps of City Hall by police, HUAC released a distorted propaganda film, Operation Abolition. In a counter-attack that was way ahead of his time, Beig produced a nationally distributed film refutation, Operation Correction, which methodically revealed HUAC’s distortions and lies.

The ACLU-NC defended Eastern European and Chinese immigrants who faced deportation for their political views, as well as U.S. citizens who were denied passports because they were deemed “security risks,” among them poet Gary Snyder.

In 1957, Lawrence Ferlinghetti was put on trial for selling copies of poet Allen Ginsberg’s Howl at his new San Francisco bookstore, City Lights. The ACLU-NC defended Ferlinghetti against charges of “obscenity,” and the successful outcome set a new course for artistic expression. At the 50th anniversary of the bookstoke, Ferlinghetti told the crowd, “If it hadn’t been for the ACLU, we’d have been out of business forever.”

POLITICAL FERMENT AND CIVIL RIGHTS

The ACLU-NC aided the growing civil rights movement by providing legal counsel for campaigns by African Americans, Latinos, Native Americans, and Asian Americans to organize and speak out against racism in housing, education, and employment.

During the tense and tumultuous Vietnam War years, the ACLU-NC represented soldiers who were court-martialed for distributing anti-war leaflets and teachers whose credentials were threatened because they were arrested in political demonstrations.

As the lesbian and gay rights movement came out of the closet, the affiliate provided attorneys to protect gay organizations from police raids and to respond to general persecution by law enforcement.

An early advocate of reproductive freedom, the ACLU-NC defended three activists who were arrested for disseminating information about abortion techniques and helped eliminate criminal abortion laws in the state.

And as San Francisco’s counter-culture blossomed, the ACLU-NC was busy defending the First Amendment rights of street musicians, poets, and the world-renowned San Francisco Mime Troupe.

The political ferment of the 60s generated a significant growth in the affiliate’s membership, which reached 12,500 by the end of the decade.
FORGING NEW PATHS ON PRIVACY, POLICE AND THE DEATH PENALTY

In 1972, the ACLU-NC helped to author and pass a pri
vacy amendment to the California Constitution. This in
novative measure established the explicit right of privacy in the state, and became the legal underpinning of a wide and varied range of litigation: from protecting individual financial records and membership rolls of political parties to landmark victories guaranteeing the right to reproductive choice.

The organization also established the Police Practices Project to monitor, expose and challenge police abuse, from political spying on demonstrators to police roundups of homeless people. In support of the burgeoning women's movement, the affiliate took cases focused on hiring, employment conditions, benefits, and residency requirements to ensure equal rights for women. The affiliate also hired its first woman Executive Director, Dorothy Ehrlich, who served in that position for 28 years. The organization fought for the rights of prisoners, laying the groundwork for religious freedom, decent medical care and safety; and the right to write and read inmate-edited newspapers. In psychiatric hospitals, the ACLU-NC successfully waged a major campaign against the forced drugging of patients.

The ACLU-NC participated in the lawsuit that ended the death penalty in California, a major victory that was to reverberate nationally and last a quarter century.

CHANGING DEMOGRAPHICS AND SHIFTING BATTLEFIELDS

The end of the wars in Southeast Asia, new wars in Central America and the economic devastation on both continents brought many new immigrants to California. Many Californi
a and federal officials did not welcome the newcomers.

The ACLU-NC litigated against a probe, ordered by the U.S. Attorney, of bilingual ballot seekers and fought INS raids at workplace and in immigrant neighborhoods. We published many of our materials—including popular pocket-sized “Rights on Arrest” cards—in English, Span
ish, Chinese and several Southeast Asian languages.

Our efforts on behalf of the First Amendment were stretched to new limits with the growth of the Internet. Encouraging Silicon Valley and the heart of the high

technology revolution, the affiliate made a special commitment to this new arena of expressive freedom, winning key cases supporting the rights of library patrons to have access to the Internet, and working alongside the national ACLU to protect privacy and prevent censorship in cyberspace.

Recognizing the need to encourage new generations of civil libertarians, the affiliate founded the Howard A. Friedman First Amendment Project for youth. The Project embarked on student-led conferences and exploratory field trips. The young people introduced the affiliate to many civil liberties violations in schools, leading to a fresh docket of student rights cases, and challenges to censorship of student handbooks, videos, and poetry; high school drug
testing and searches; and support for lesbian and gay stu
dents facing violence and harassment.

We also witnessed an upsurge in right-wing ballot initia
tives on race, immigration, criminal justice, and gay rights. Proposition 187, spurred by then-Governor Pete Wilson as a launch pad for a presidential bid, would have cut off educa
tion and health care and all government services to undocu
mented immigrants. We lost at the ballot box, but defeated the measure in court.

Proposition 209 eliminated affirmative action in educa
tion, hiring and state contracting. We again lost at the ballot box, and—after an initial stunning win in the courtroom of Judge Thelton Henderson—lost again in the Court of Appeals. Proposition 227 scrapped effective bilingual education programs. Voters passed measures to enact the Three Strikes law, to expand the death penalty and to in
curate juveniles as adults. The initiative process—started by lawyer Hiram Johnson to provide an independent democratic voice for the people when the Legislature was controlled by business interests—had turned into a tool to restrict the rights of minorities.

As an antidote to Proposition 209, and in recognition of the growing recognition of the educational and civil rights systems, the ACLU-NC founded the Racial Justice Project. The Project, working with other civil rights groups, filed successful lawsuits challenging unequal admissions in the U.C. system and targeting deplorable learning conditions in schools that served communities of color.

The Project also launched the innovative “Driving While Black or Brown” campaign, a multi-faceted effort—including radio ads, billboards, a statewide hotline, town hall meetings, legislation and a successful lawsuit against the California Highway Patrol—to expose and stop the wide
spread practice of racial profiling by law enforcement. The campaign was replicated by the national ACLU and many other affiliates.

THE STRUGGLE CONTINUES

The government’s response to 9/11—round-ups and de
tention of thousands of Muslim, South Asian and Middle Eastern men; deportations without hearings; unblinking
discrimination of the Patriot Act; special registration and racial profiling at airports—upended the ACLU nationally and locally, into an unprecedented level of activity. In the im
mediate aftermath of 9/11, we set up a special hotline for vulnerable communities, provided legal representation, and conducted “Know Your Rights” trainings. We later took on cases challenging government watch lists and surveillance, and we sued Jepson, a San Jose-based company that aided the CIA in extraordinary rendition flights.

We opened our first satellite office, in San Jose, and launched the Technology and Civil Liberties Program, fo
cusing on the intersection of privacy, free speech, and new technology.

Our affiliate continues to fight for full equality for LGBT people and their families, including the right to marry.

Over the past 75 years, the ACLU-NC has endured and expanded. We now have 53,000 members, 15 local chap
ters and five campus clubs, and a staff of 46. We are well
prepared to face new challenges under the leadership of our new Executive Director, Abdi Sohani.

As the late Edison Umar, an ACLU-NC Board member and World War II internee noted, “We may have elimi
nated the statutory provisions for detention camps, but we must always remember it takes external vigilance to improve democracy. We must struggle to eliminate the camps of fear, hate, racism and repression.”

The skills, experience, and tenacity gained from over seven decades of fighting for civil liberties have strength
ened the ACLU-NC to continue that struggle.
In July 1944, Ernest Besig visited Tule Lake internnees at the wartime concentration camp and discovered that for the prior eight months 18 U.S. citizens (out of an initial group of over 100) had been imprisoned without charges in the camp's stockade. The camp director ordered Besig out. After his departure, Besig learned that two sacks of sugar had been poured into his gas tank, which gummed up the engine and prevented the car from running. Because of the ACLU-NC’s advocacy, the prisoners were eventually released.

In 1953, tenured English professor Howard Lewis fought his dismissal from San Francisco City College for not testifying before the House Un-American Activities Committee. More than ten years later, the state Supreme Court vindicated him, awarding him full back pay with interest.

FRED AYKENS AND RANDOLPH WALLACE were arrested in a 1956 raid at Hazel’s Inn, a Pacifica bar, because the sheriff suspected they were gay. Almost all of the 87 men arrested did not dispute the charges against them, but Ayken and Wallace decried decades of police harassment of gay people and insisted on a trial because they had done nothing wrong.

In 1958, the affiliate successfully represented PATRICIA BAINS, a social worker who was denied a job as a Field Probation Officer in Contra Costa County solely because of her inter racial marriage.

SEABORN AND JEAN BURLS tried to buy a home in a new San Francisco development but were denied because they were black. The ACLU-NC represented the couple in the California Supreme Court, which in 1962 ruled in the Burks’s favor and upheld the Unruh Act barring racial discrimination in all businesses.

Alameda County social worker BENNY PARRISH was fired because he refused to participate in a 1963 early morning raid of welfare recipients’ homes. The state Supreme Court invalidated such raids, and ordered Parrish reinstated.

In 1964, California real estate associations convinced voters to pass a state constitutional amendment to repeal all fair housing laws and to ban the state from enacting such laws. Peninsula real estate developer HOWARD LEWIS publicly opposed the measure, resulting in professional and personal threats. Lewis, a longtime ACLU-NC activist and volunteer, was vindicated when the U.S. Supreme Court ruled the proposition unconstitutional.

RICHARD ORSER, PAT McGINNIS AND ROWENA BURNER were all convicted in San Mateo Superior Court for violating the state law that prohibited disseminating information about how to obtain an abortion. ACLU-NC attorneys represented them on appeal, and in 1969 won a ruling that the statute violated the First Amendment.

In 1973, the Department of Defense tried to revoke engineer ALLAN ROCK’S security clearance after learning he was gay. Without the clearance he would lose his job with a Mountain View defense contractor, despite his supervisor’s belief that Rock performed extremely well in a difficult job important to national defense. The ACLU-NC represented him and was successful in allowing him to keep his clearance and his position.

Morgan Hill high school student ALANA FLORES was relentlessly harassed by fellow students who thought she was gay. Because of her lawsuit against the school district, in 2003, the 9th U.S. Circuit Court of Appeals issued a landmark ruling that school officials have a constitutional duty to proactively and effectively end anti-gay discrimination and harassment.

Seventh grader ELIEZER WILLIAMS was the lead plaintiff in a 2000 class action suit charging the state with failing to guarantee the bare minimum resources for a quality education. In 2004, the case settled when the state agreed to establish new complaint procedures and to provide a billion dollars for school districts to purchase educational materials, to identify and fix deteriorating schools, and to ensure that all schools hired qualified teachers.

When 26-year old MBA student ARSHAD CHOWDURY was surrounded at the San Francisco airport in 2001 by law enforcement agents and airline officials who told him he could not board his flight, the post 9-11 racial profiling of South Asian and Middle Eastern men hit home. With the help of the ACLU-NC, the Connecticut-born son of Bangladeshi immigrants sued the airline for discrimination.

ELAINE ELISON was the Public Information Director of the ACLU-NC from 1980 to 2001. Stan Yagi is the Director of Planned Giving. They are coauthors of Wherever There’s a Fight: How Runaway Slaves, Suffragists, Immigrants, Strikers, and Poets Shaped Civil Liberties in California, which will be published in October by Heyday Books.
CONTINUED FROM PAGE 1

The settlement, a five-year agreement, is designed to combat harassment and discrimination based on sexual orientation and gender identity at all of the district's schools, and includes district-wide anti-harassment training for students and staff.

Alexander Adsit of San Leandro recently graduated from Oakland Technical High School, where he was school president and for two years led his school's Gay Straight Alliance. One of his proudest accomplishments was lobbying in support of the 2007 Safe Place Act to Learze (AB 394). Tram recalls preparing all weekend for the legislative visits, then meeting a particularly stony-faced lawyer at the Department of Education. “We were so thrilled when, at the end of our presentation, he said he agreed with us,” said Tram.

Alexender Adsit at San Leandro recently graduated from Oakland’s Bishop O’Dowd High School, where he was president of a LGBTQ-supportive club. After facing harassment and threats as a young teen, Adsit decided “I want to create more positive change in the world, so that no other kid has to suffer like that.” For Adsit, one of the keys to creating change is public education. “I think it’s really important that we speak up about how we live our lives and why things like marriage are important to us,” he said. “With support from the larger community, we’ll be much more likely to win.”

Stay tuned for more about the student trip in the next ACLU News.
THE ROAD TO FULL LGBT RIGHTS IN CALIFORNIA: WHAT’S NEXT?

The California Supreme Court’s upholding of Proposition 8 is profoundly disappointing. Yet our loss on Proposition 8 has galvanized the rest of the nation—since November 2008, four more states have legalized marriage for same-sex couples for a total now of six states. There is little doubt that we are on the road to marriage equality. But how will California get from here to there?

We have made so much progress in so little time, and yet there remains tremendous resistance to dismantling the laws and culture that relegate LGBT people and our families to second-class citizenship.

More proactive engagement by LGBT people and our allies is required if we are to achieve full and complete equality in the next generation.

It is not enough to be out. Many of our family members, friends, coworkers and neighbors know that we are LGBT, but they do not know the specific challenges that we face in our daily lives. For example, my cousins were surprised to learn that there is no federal law that prohibits firing a person, simply because he or she is gay. Our lawmakers need to hear more directly from us.

LGBT people and our allies need to push on the outer bounds of our comfort zones. We need to understand that as LGBT people we already have the strength and courage to learn that there is no federal law that prohibits firing a person, simply because he or she is gay. Our lawmakers need to hear more directly from us.

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Perseverance is a fundamental aspect being ourselves daily. Our dear and wonderful allies must engage alongside us. Speak up!

—Lisa Cisneros
Rural LGBT Activist

This July we celebrated our first wedding anniversary and our 34th year together. We never expected to marry. It was out of the question throughout our years of struggle as theology.

The experience of marriage equality in California being granted and then taken away has changed us all. We now expect full equality. For some of us, it’s for the first time.

—Michelle (Mickey) Welsh and Kathy Stoner
Senior Counsel and Marriage Project Director for Lambda Legal

Many of us decried the Supreme Court’s decision upholding Prop 8 for ignoring structural limitations on the initiative power, green-lighting further ballot box abuse of vulnerable minorities. Yet we shouldn’t overlook that it had at least two positive effects.

First, it was a wake-up call that’s galvanizing huge new activism. Second, it affirmed the marriages of roughly 18,000 same-sex couples who tied the knot last year.

And now it’s obvious that Prop 8 drew an arbitrary line.

We must continue to lobby officials, write letters to the editors, leaflet at events, and send speakers to groups, including churches. Many religious faiths see equality and justice as theological issues. Many of us need to question our assumptions about churchgoers (we are), people over 60 (we are), and other stereotypes that divide us.

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Mickey serves on the ACLU-NC Board, and Kathy serves on the ACLU-NC Legal Committee.
Allen Asch can still remember what he did the week of his birthday in 1983. He was 18, a high school senior in Palos Verdes, California. “I registered to vote. I registered for the draft. And I joined the ACLU,” recalls Asch.

“Joining the ACLU was part of what I saw as being a good citizen,” he explains. “It was in keeping with my general principles. I registered to participate in the democratic process, so it seemed fitting that I give my support to the group that ensures our Constitutional rights are protected—no matter what the majority may think.”

Asch has been actively supporting that principle ever since. By the time he graduated from Yale University in 1991, Asch had pretty much decided he wanted to become a public defender, one of the people he sees as upholding the public’s right to a fair trial. Since then, he has mainly focused on Placer and Sacramento counties. Since his 8-year-old daughter, Miranda, was born, however, he has mainly focused on raising her, doing legal work as a volunteer in his free time.

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President Obama inadvertently gave us the best explanation when he announced that he had changed his mind about releasing photographs of abuse. The President said that these were “rare and isolated instances” and that where appropriate, the perpetrators had been punished. Both of those statements are untrue.

We know that the abuses that were documented at Abu Ghraib were routine—not an aberration. They took place at facilities around the world and not just at one prison in Iraq. And we know that the highest level official to face prosecution was a lieutenant colonel, even though the abusive interrogation tactics were approved at the highest levels of Department of Defense and civilian leadership.

The People in the Bush Administration Who Condoned Torture Are No Longer in Charge. Shouldn’t We Just Forget About It and Move On?

President Obama has suggested that we should look forward without looking back. But in a country governed by the rule of law, that’s a false choice. Enforcing the law means looking backward in order to ensure that abuses are not repeated. This is particularly important given that there is still an extraordinary debate going on in this country about the legality, the efficacy and the morality of torture.

There are loud voices in the political establishment who are still defending what happened during the last eight years, people who have made clear that if they are restored to power, they will restore these policies. And in that context, to say that we should just move on is to put the country at risk of returning to an era of abuse that brought shame to our country internationally.

Isn’t Pressing for Accountability a Distraction, One That Saps Resources That Need to Be Devoted Elsewhere?

That’s an argument that could be made about enforcing the law in any context. What we hear over and over again is that to enforce the law against political leaders from the prior administration would be to criminalize policy differences. Precisely the opposite is the case. The danger of politicization comes not from calls to enforce the law, but from calls to exempt the political class from laws that apply to everyone else.

That the infliction of barbaric cruelty on prisoners was purportedly “authorized” by Justice Department lawyers changes nothing.

What Is to Be Gained from a Formal Investigation into Abuses of Power by the Bush Administration?

We truly are in a state of transitional justice. We had an administration that believed that because we were in a war that would take place everywhere and forever, no statute could qualify the president from acting as he saw fit. To truly return to the rule of law, we need to ensure that there are consequences for that kind of extraordinary law breaking.

“There’s another reason, too. To date, no victim of the Bush Administration’s torture policies has yet had his day in court. We at the ACLU are obviously working in various lawsuits to ensure that these victims can be heard, and that they can receive justice.

What Role Should Congress Play in Uncovering the Truth?

Congress has a very important role. Certainly there are important investigations underway in Congress right now into both the Defense Department’s and the CIA’s torture policies. It’s also possible that Congress itself was complicit in permitting some of these torture policies to go on without any real oversight. So Congress can’t be the sole investigator here.

We have called for an independent prosecutor and for a joint committee of Congress modeled on the Church Committee, which investigated abuses of law and power by the CIA and the FBI that came to light as a result of the Watergate scandal. Such a committee should do a comprehensive review of the administration’s torture policies. That would not only add to the historical record but help achieve a clean break with the regime that just left office.

What Can ACLU Members and Our Allies Do to Encourage Congress to Get to It and Stay Focused?

This is a very important question. The public at large and ACLU members in particular must keep the pressure on our members of Congress not to let this issue go. It’s the tendency of all administrations to try to avoid politically complicated questions and to stick with more comfortable issues. But ACLU members above all have to make clear that it’s unacceptable for Congress to sweep these crimes under the rug and to pretend that they never happened.

It is absolutely insufficient that we now have executive orders that ban torture and close CIA prisons. Executive orders can be shredded and rewritten by the next president. This is not about the president, it’s about the presidency.

Why Does the ACLU Believe President Obama Should Release Government Documents and Photos About Torture?

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Give back to the ACLU—and help the ACLU give back to your community in turn—by serving as a volunteer in our annual fund campaign!

Personal relationships are at the heart of fund development at the ACLU Foundation of Northern California. Every fall, we launch an annual fund campaign. When you give back to the ACLU, you join our loyal donors to thank them for their past contributions, talk with them about ACLU issues of interest, and ask that they continue their support. By connecting our donors with volunteers who share their passion for defending freedom, we build a community of individuals who care about civil liberties while ensuring our programs will be sustained for years to come.

Consider taking up the torch for freedom by joining fellow ACLU members in this important effort! To learn more, please connect with Major Gifts Officer Dana Testori at dtestori@aclunc.org or 415.621.2493 ext. 370.