

ACLU SUMMER 2009 news

VOLUME LXXII ISSUE 3

WHAT'S INSIDE

SPECIAL CENTER INSERT: CELEBRATING 75 YEARS

Stay tuned for a look forward to the *next* 75 years in the Fall issue of the ACLU News.



Rochelle Hamilton (right) with her younger sister, Raina.

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

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. ■

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 are 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 2009-2010 Board of Directors directly. The nominating committee is now seeking suggestions from the membership to fill at-large positions on the Board.

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LETTER FROM THE EXECUTIVE DIRECTOR MARKING 75 YEARS

BOB HSIANG PHOTOGRAPHY



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 grandparents, 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 defend 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 whose support of the ACLU takes those principles and applies them to our lives today.

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

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, when 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 Vurek 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.” ■



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GETTING SMART ON CRIME COULD HELP SAVE STATE BUDGET

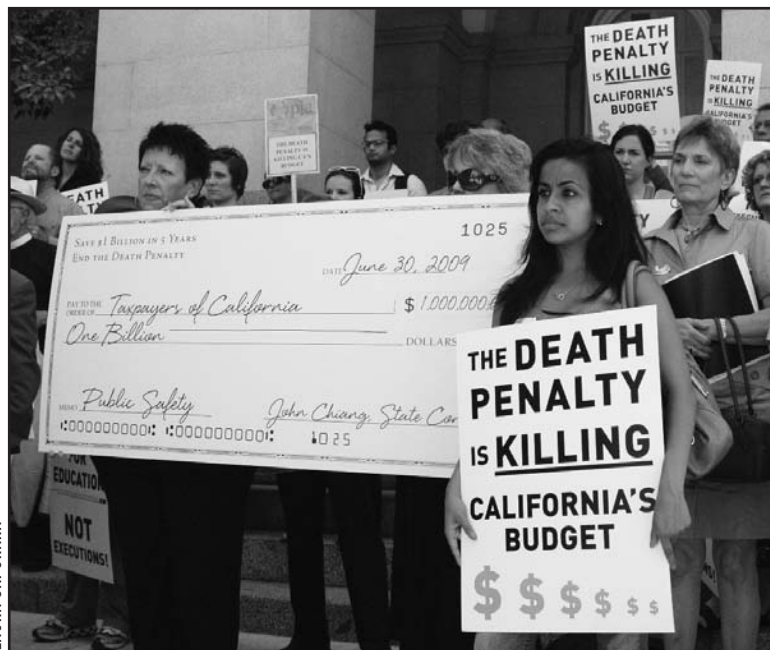
By Francisco Lobaco

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 stands at 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



LAURA SAPONARA

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 be-

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 "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 ally 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 other top 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 entourage 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 Rolufs 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.

"After 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 Rolufs, Berkeley

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



LAURA SAPONARA

JOIN THE MATH TEAM, TAKE A DRUG TEST?

By Rebecca Farmer

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 Dalton, 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 someone 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.

“I was ecstatic,” said Brittany, recalling how she felt the



Brittany Dalton and Benjamin Brown.

morning she learned that the judge’s ruling would allow her to compete with her ensemble.

Benjamin Brown and his parents also objected to the policy.

Benjamin, also recently graduated, played the French horn and trumpet competitively, and sang in the choir. He consented to the policy under protest to be eligible to try out for Honor Choir, and was concerned that the policy could interfere with his musical activities.

“Music is the center of my life,” said Benjamin. “There’s always a chance of a false positive. If there was competition coming up soon, you wouldn’t be able to participate.”

“Students shouldn’t be treated like suspects because they want to play in the school band,” said ACLU-NC Staff Attorney Michael Risher. “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 Marlow 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 begins his junior year in the fall. Brittany and Benjamin will remain involved in the suit along with their parents. ■

LEGAL & LEGISLATIVE BRIEFS

WORKING FOR EQUAL TREATMENT FOR NATIVE AMERICAN STUDENTS

The Del Norte County Unified School District reached an agreement with the ACLU of Northern California designed to ensure that its schools provide a more welcoming and inclusive environment for students of all backgrounds, particularly Native American students.

The ACLU and the district began working together to reach the agreement after the ACLU brought a number of concerns to the district’s attention, including disparities in the rates that Native American students in district schools were disciplined and allegations of racial harassment of Native American students by their peers and teachers.

The agreement outlines a number of initiatives the district will employ, including provisions for refining disciplinary procedures and policies, providing professional development for staff members regarding understanding and responding to cultural differences, and updating school curricula to include Native American history and culture, with a particular emphasis on the local Yurok Tribe.

Attorneys with the law firm of Covington & Burling, LLP worked with the ACLU on a pro bono basis.

The binding agreement includes five years of monitoring, during which the ACLU and district will work together to help ensure that the reforms are implemented effectively.

A LESSON ON THE FIRST AMENDMENT (FOR THE DEPARTMENT OF DEFENSE)

Which of the following is an example of low-level terrorist activity?

- ☐ Attacking the Pentagon
- ☐ Improvised Explosive Devices (IED)
- ☐ Hate crimes against racial groups
- ☐ Protests

This question appeared on an exam given to government employees in a Level 1 Antiterrorism Awareness training course. The correct answer, according to the Department of Defense (DoD), was “protests.”

In June the ACLU sent a letter to Gail McGinn, Acting Under-Secretary of Defense for Personnel and Readiness at the Pentagon, asking that the exam materials be corrected immediately to reflect a working knowledge of the First Amendment.

In media coverage of the story, ACLU-NC attorney Ann Brick explained to Fox News, the *Contra Costa Times*, readers of the DailyKos and other outlets, “It is fundamentally wrong to equate activism with terrorism.”

In response, the DoD told Fox News that it is removing the question from the test and sending an e-mail to each employee that took the test “explaining the error and the distinction between lawful protests and unlawful violent protests.” We still think they have more explaining to do.

DEMANDING ACCESS TO POLICE RECORDS IN FRESNO

In February, a Fresno television newscast aired a video of a police officer repeatedly punching Glen Beaty, a homeless man.

In the video, Beaty does not appear to be struggling, resisting, or doing anything else that could warrant this level of force: he is lying on the ground as one officer holds his arm and the other punches him in the head. His arms are behind his back when the officer delivers a final blow to the back of his head.

Under state law, public agencies must make records readily available upon request—within ten days or, in unusual circumstances, 24 days. Yet nearly three months after the ACLU-NC requested the names of Fresno police officers involved in the widely reported beating and arrest of Beaty, the City of Fresno continued to withhold all records. In May, the ACLU-NC filed suit challenging the city’s refusal.

One week after we filed suit, the city released the records. It nonetheless denies that it acted improperly in withholding them and refuses to change its policy for handling such requests or, strangely, even to admit that it has a policy. We will continue to litigate the case to ensure that the city complies with our state’s public-records law. ■

75 YEARS We see justice through

2009 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

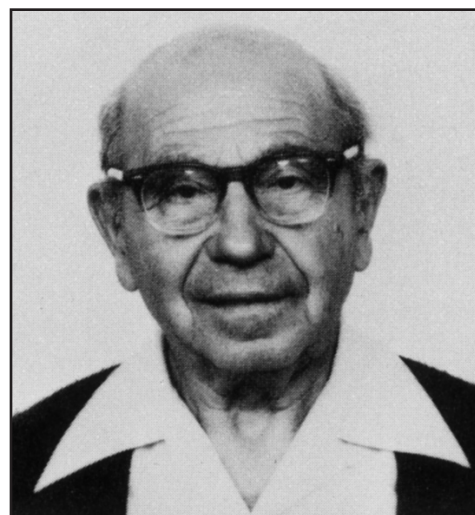
The courage of some ACLU-NC clients—like Fred Korematsu and Lawrence Ferlinghetti—is widely recognized far beyond Northern California. But there are many people that the ACLU-NC has represented whose willingness to fight for civil liberties is not as well-known. Here are just a few of the unsung heroines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



Clipping of Charlotte from a 1936 issue of the *ACLU News*.

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

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



HISTORY OF THE ACLU OF NORTHERN CALIFORNIA

HISTORIC OVERVIEW BY ELAINE K. HARRIS



The National Guard at the Embarcadero in San Francisco during the 1934 General Strike.

1930s

ACLU-NC IS BORN OUT OF LABOR STRUGGLE

In 1934, one of the most dramatic labor struggles in United States history took place in San Francisco. To gain union recognition and improve the notoriously bad working conditions on the waterfront, Bay Area maritime workers went on strike.

After vicious police attacks, culminating in “Bloody Thursday” (July 5, 1934) when two trade unionists were shot and killed outside the union hall at Steuart and Mission Streets, a general strike was called to support the longshoremen.

Governor Frank Merriam called in National Guardsmen who posted themselves on top of the Ferry Building with machine guns. Police and vigilante groups attacked union halls, strike kitchens and laborers’ homes with tear gas, bullets and bricks.

The national ACLU, then 14 years old and based in New York, sent two southern California organizers, Ernest Besig and Chester Williams, to help combat the wholesale attack on the workers’ civil liberties.

They recruited the first ACLU-NC Board of Directors from local civic leaders, including philosophy professor Dr. Alexander Meiklejohn, poet Helen Salz and UNESCO Director Dr. Charles Hogan, who was elected chairperson. Their initial meeting, on September 21, 1934 in the Bellevue Hotel in San Francisco, drew 60 members.

One of the ACLU-NC’s first actions was to sue San Francisco and Oakland after trade unionists and anti-Franco demonstrators were charged with violating anti-picketing laws. The new organization filed lawsuits against several local ordinances; the United States Supreme Court eventually struck down anti-picketing laws as unconstitutional in 1940.

Labor issues continued to dominate the early years of our affiliate. When the 1935 Holmes-Eureka lumber strike broke out, three picketers were killed, eight wounded and more than 150 arrested. No attorney in Humboldt County was willing to defend the strikers, so the ACLU-NC offered legal counsel.

Besig planned to be in Eureka for 30 days. But those 30 days extended to a lifetime of service to the ACLU. He was Executive Director of the affiliate until 1971.

The fledgling organization procured full pardons for 22 Wobblies (members of the International Workers of the World) who had been convicted under California’s criminal syndicalism law, which outlawed membership in radical groups. The ACLU-NC also aided in the defense of Tom Mooney and Warren Billings, San Francisco labor leaders falsely convicted of bombing San Francisco’s 1916 Preparedness Day Parade. After a massive international campaign for their release, the two were pardoned; they had served more than 20 years in San Quentin.

The affiliate also successfully challenged California’s “anti-Okie” laws, which made it a crime to help an indigent person enter the state.

The affiliate took up other First Amendment issues as well. Throughout the decade, the organization defended

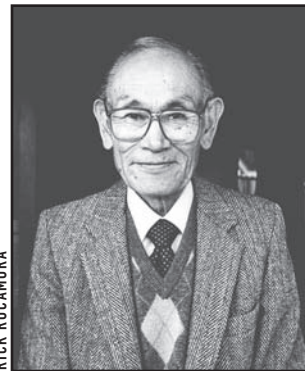
Jehovah’s Witness students who were suspended for not saluting the flag. These were the first of many freedom-of-religion cases that the affiliate later undertook on behalf of Black Muslims, Jews, Sikhs, Buddhists and other religious minorities.

1940s

WARTIME HYSTERIA AND INTERNMENT

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 draftsman Fred Korematsu was jailed for refusing to obey military orders that all Japanese Americans report to relocation centers.



RICK ROCKMORA

Fred Korematsu

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. 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.

ACLU-NC Executive Director Besig also investigated and exposed the “Gestapo-like” conditions at the camp, at Tule Lake, often at great physical danger to himself.

The national ACLU disagreed with the affiliate’s strong stance against the internment and urged our affiliate to drop its representation of Korematsu. Besig refused.

The ACLU-NC was also one of the early fighters against race discrimination in the state, challenging the segregation of Mexican Americans and blacks in schools, swimming pools and other public facilities. The ACLU mobilized support for African American sailors at Port Chicago who refused to load munitions ships after an explosion killed 300 and injured hundreds more. Though the sailors were court-martialed and imprisoned, their action eventually led to the desegregation of the Navy.

1950s

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.

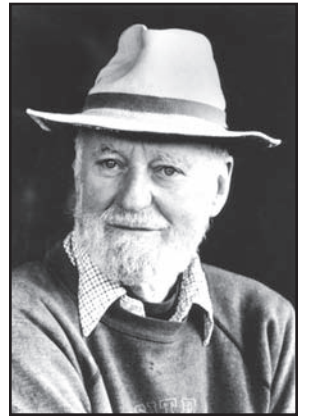
The ACLU-NC defended hundreds of victims of federal and state “loyalty and security” programs, and led opposition to the witch-hunting of congressional and state legislative “Anti-American” committees.

Against all odds during the Red Scare, the ACLU-NC challenged a wide variety of loyalty oaths: from one required of recipients of unemployment benefits, to the Levering Act that mandated oaths from all California public officials and state employees.

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, Besig 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 “obsenity,” and the successful outcome set a new course for artistic expression. At the 50th anniversary of the bookstore, Ferlinghetti told the crowd, “If it hadn’t been for the ACLU, we’d have been out of business forever.”



Lawrence Ferlinghetti

1960s

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.

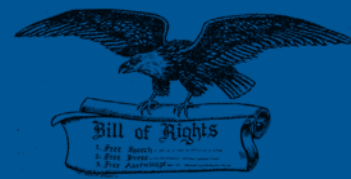
The political ferment of the ‘60s generated a significant growth in the affiliate’s membership, which reached 12,500 by the end of the decade.



UC Berkeley rally

N CALIFORNIA: Celebrating 75 Years

NE ELINSON AND STAN YOGI



Police along side police abuse demonstrators in Sacramento.

1970s

FORGING NEW PATHS ON PRIVACY, POLICE AND THE DEATH PENALTY

In 1972, the ACLU-NC helped to author and pass a privacy amendment to the California Constitution. This innovative 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 round-ups 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.

1980s

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 California 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 workplaces and in immigrant neighborhoods. We published many of our materials—including popular pocket-sized “Rights on Arrest” cards—in English, Spanish, Chinese and several Southeast Asian languages.

In a major victory for freedom of expression, the affiliate helped secure the right to distribute leaflets and political literature at shopping centers, dubbed by the court the “modern-day town plaza.”

The affiliate founded the Lesbian and Gay Rights Project, which pursued lawsuits on behalf of gay men and lesbians who were denied benefits, refused jobs and security clearances, or fired. The Project authored and helped to implement the first domestic partnership ordinances in the

country, laws that hundreds of other cities and states copied. The HIV/AIDS Project formulated public policy and model legislation that protected people with AIDS against draconian measures that would undermine public health.

The legalization of abortion by the U.S. Supreme Court gave rise to a well-funded anti-choice movement that tried to chip away at the right to choose by eliminating options for young women, poor women, and women of color. The ACLU-NC sought to maintain Medi-Cal funding of abortions for indigent women after federal funding was cut off. In 1981, the ACLU-NC won a landmark victory in the California Supreme Court when Justice Matthew Tobriner, relying on the privacy amendment in the state constitution, wrote: “Once the state furnishes medical care to poor women in general, it cannot withdraw part of that care solely because a woman exercised her constitutional right to have an abortion.”

A subsequent case guaranteed that teenagers could receive an abortion without requiring parental or judicial consent—a key right for young women in abusive families.

We also fought the Reagan and Bush administrations' war on the poor with cases defending the rights of families on welfare, SSI recipients and homeless people.

1990s

FAMILIAR FIGHTS, NEW TARGETS

The beginning of the decade was marked by a massive effort to prevent the first execution in California in 25 years. The ACLU-NC Death Penalty Project directly represented Robert Harris. But our strenuous effort for clemency, a multi-faceted public education campaign, and appeals that went to the U.S. Supreme Court until the dawn of the execution, could not prevent the return of capital punishment to California. To carry on its work against state executions, the ACLU-NC was instrumental in bringing together legal, political and religious leaders to found Death Penalty Focus.

The Language Rights Project, an outgrowth of our immigrants' rights work, created a groundbreaking docket of legal challenges to language and accent discrimination in employment, government services and the commercial realm.

Our efforts on behalf of the First Amendment were stretched to new limits with the growth of the Internet. Encompassing Silicon Valley and the heart of the high-tech 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 students' rights cases, including challenges to censorship of student murals, videos, and poetry; high school drug-testing and searches; and support for lesbian and gay students facing violence and harassment.

We also witnessed an upsurge in right-wing ballot initiatives 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 education, health care and all government services to undocumented immigrants. We lost at the ballot box, but defeated the measure in court.

Proposition 209 eliminated affirmative action in education, 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 incarcerate juveniles as adults. The initiative process—started by Governor 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 resegregation of our educational and criminal justice 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 widespread practice of racial profiling by law enforcement. The campaign was replicated by the national ACLU and many other affiliates.



Billboard display from the groundbreaking “Driving While Black or Brown” campaign.

2000s

THE STRUGGLE CONTINUES

The government's response to 9/11—round-ups and detention of thousands of Muslim, South Asian and Middle Eastern men; deportations without hearings; unblinking passage of the Patriot Act; special registration and racial profiling at airports—catapulted the ACLU, nationally and locally, into an unprecedented level of activity. In the immediate 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 Jeppesen, 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, focusing 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 chapters 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 Soltani.

As the late Edison Uno, an ACLU-NC Board member and World War II internee noted, “We may have eliminated the statutory provisions for detention camps, but we must always remember it takes eternal 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 strengthened the ACLU-NC to continue that struggle. ■

CIVIL LIBERTIES HEROES AND HEROINES

CONTINUED FROM PAGE I OF INSERT

In July 1944, Ernest Besig visited **TULE LAKE INTERNEES** 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.



Tule Lake Relocation Center Labor Day parade, 1942.

In 1953, tenured English professor **JOHN MASS** 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 defied 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 GAINS**, a social worker who was denied a job as a Field Probation Officer in Contra Costa County solely because of her interracial marriage.

SEABORN AND JEAN BURKS 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.



Howard Lewis

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 GURNER 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.



Attorney Joe Remcho and Allan Rock

RAUL ESQUIVEL was working at a Benicia foundry in 1982 when it was raided by the INS during a massive sweep dubbed Project Jobs, which targeted Latino workers. The agents had neither warrants nor permission from employers. A federal judge determined that such raids were illegal.



Clipping of Rajinder Cheema and family from a 1997 issue of the *ACLU News*.

Ten-year-old **RAJINDER CHEEMA**, a Khalsa Sikh, was barred from his Livingston elementary school because he wore a kirpan, a small blunt knife that is one of the five sacred symbols of his religious. The ACLU-NC challenged his suspension in federal court under the Religious Freedom Restoration Act, and in 1997 succeeded in getting the boy and his siblings back to class.

San Carlos middle school teacher **MILTON REYNOLDS** called the

ACLU-NC DWB (Driving While Black) hotline in 1999 because he had been racially profiled by the police one too many times. Reynolds became an activist in the Racial Justice Coalition advocating for a state law to end the practice.

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.



Alana Flores and Freddie Fuentes

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.



Arshad Chowdury

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 Elinson was the Public Information Director of the ACLU-NC from 1980 to 2001. Stan Yogi 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.

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

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.

Rochelle told her story to listeners of KQED radio, as part of the first-person essay series, “Perspectives” (text at right). To read more about Rochelle’s story, and view news clips featuring Rochelle and her mother, Cheri Hamilton, visit the ACLU-NC’s website, www.aclunc.org. ■

YOUTH EXPLORE HISTORIES OF LGBTQ RESISTANCE AND ORGANIZING

This summer, the Howard A. Friedman Youth Project will explore LGBTQ struggles and victories in its trip entitled “Fierce and Fabulous.” Nineteen young people ages 15 to 20 will travel Northern California, meeting with activists, historians and elders who have contributed to the multilayered movement for LGBTQ liberation. Two students participating in the trip are Le Tran and Alexander Adsit. Tran 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 to Learn Act (AB 394). Tran 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 Tran. Alexander Adsit of 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*. ■

BOARD ELECTION NOTICE

CONTINUED FROM PAGE 1

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 10, 2009). 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 September 30, 2009 (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.

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. ■

IN HER OWN WORDS: ROCHELLE HAMILTON

In 2007, I started attending Jesse Bethel High School in Vallejo. I was a sophomore, and an out lesbian. Almost from the minute I got there, I was harassed. It didn’t come from other students—it came from teachers and staff. They asked what was wrong with me. They told me I didn’t even know if I was a man or a woman. One teacher refused to let me in the girls’ locker room to use the bathroom. Another told me it was a sin. It was ungodly. And I was going to hell. I was encouraged to join a school counseling group. I thought it would be to support us. But when I got there, the counselor asked whether I could ever imagine being with a man. She said it’s hard to get a job if you’re gay. I stood up to her and to all the other teachers. That’s probably why they singled me out.

SO THIS IS MY MESSAGE TO OTHER YOUNG PEOPLE BEING DISCRIMINATED AGAINST: KEEP FIGHTING. BE WHO YOU ARE ‘TIL THE DAY YOU DIE. ALWAYS STAND UP FOR YOURSELF.

For three months my mom did everything she could to get the teachers to stop. Nothing worked. I felt like there was no point going to school when they don’t want me there. My mom contacted the ACLU because the law says schools have to protect students from discrimination and harassment. They worked out a settlement where every teacher and student has to be trained about homophobia and respect. And now the district has to make it easier for people to report harassment.

The best part of the whole thing for me is that now everyone will know what the rules are. The day the settlement details got worked out, I wrote on my bedroom wall: *No more pain. No more drama. No more tears.* I’m at a different school now. A gay friend told me recently that his teacher said to him “you just want to be a girl.” I told him to write a complaint. I was so proud that now there’s something we can do. So this is my message to other young people being discriminated against: Keep fighting. Be who you are ‘til the day you die. Always stand up for yourself. Or as I say in a poem I wrote: *I’m happy with my sexuality and I say it with pride you see because this is my life and this is me.*

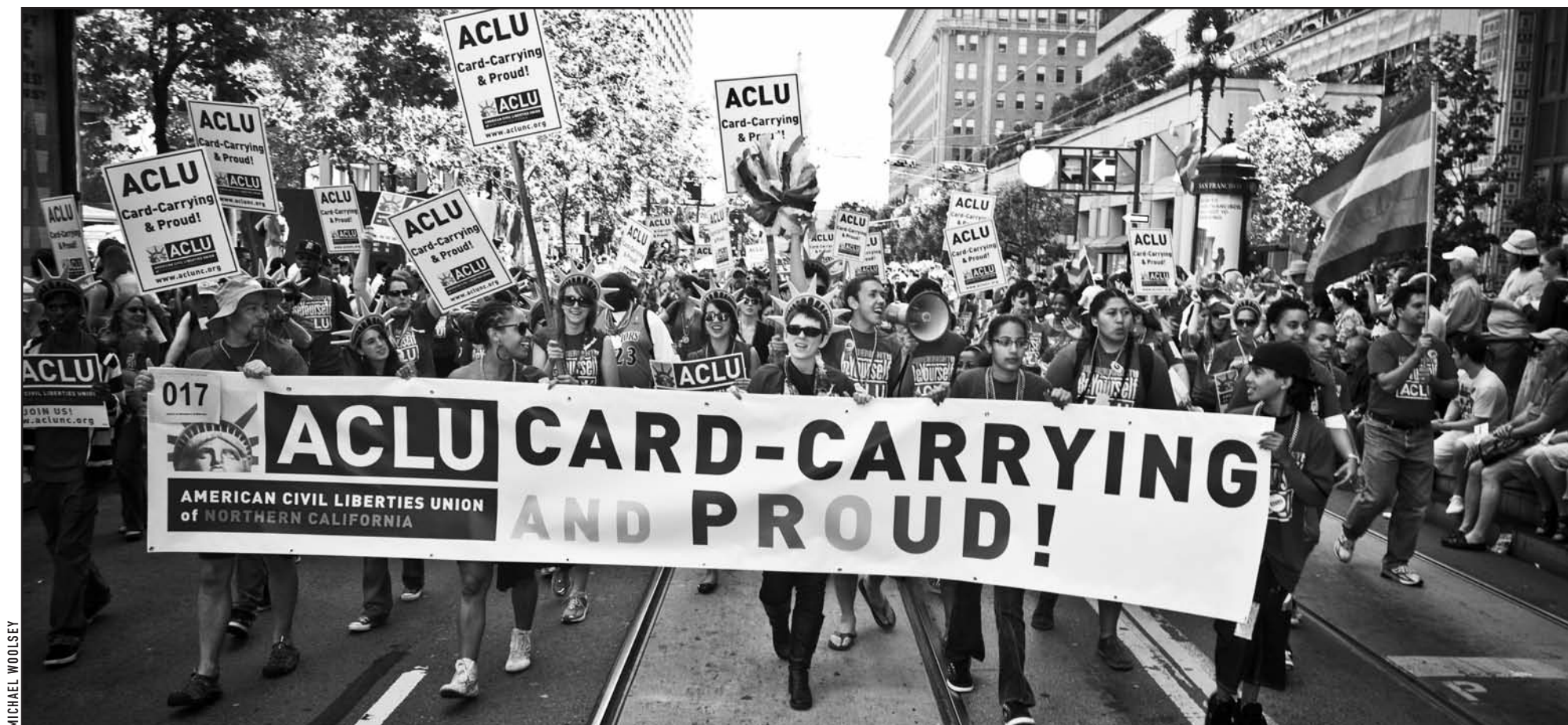
Hundreds of thousands of radio listeners heard Rochelle deliver this essay as part of KQED radio’s Perspectives series in June.

Donate Your Vehicle to the ACLU

Time to replace an older car? Just bought a new hybrid? Is that truck, RV, boat, or trailer just taking up space in the garage? 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 work 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 Bonnie Akimoto at 415-621-2493 x365 or bakimoto@aclunc.org. ■



The ACLU of Northern California took the 39th annual San Francisco Pride Parade by storm. On June 30, over 100 people marched with our contingent.

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 within ourselves to do that.

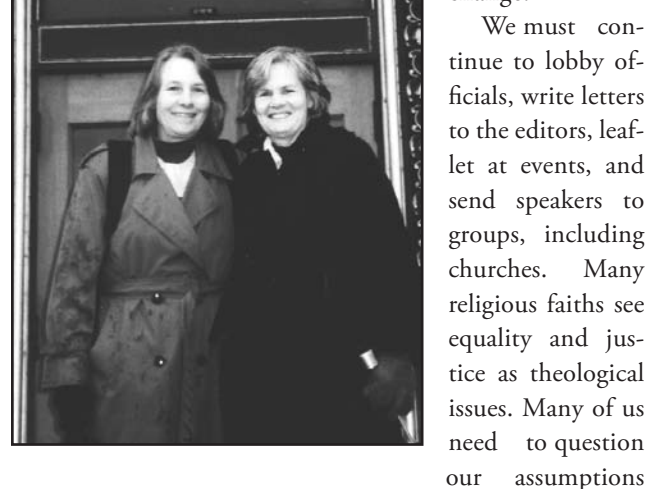
Perseverance is a fundamental aspect being ourselves daily. Our dear and wonderful allies must engage alongside us. Speak up!

—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 work for equality through the ACLU. By 2008 when we married, we were grandmothers. We had not been waiting all that time to marry, yet marriage equality is an important goal of the ACLU's decades of patient and strategic work for LGBT rights.

Then came Proposition 8. It galvanized several states to recognize marriage rights for same sex couples, but it also solidified the opposition. Lines have been drawn, sides taken.

It's time to change that dynamic. It's time to talk to each other. "Tell 3" is a way for each of us to commit to talking to 3 people about how important full equality is to us, including marriage equality. When we are people, not issues, minds can change.



about churchgoers (we are), people over 60 (we are), and other stereotypes that divide us.

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
Monterey County Chapter, ACLU-NC

Mickey serves on the ACLU-NC Board, and Kathy serves on the ACLU-NC Legal Committee.

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. Because while last summer ended any doubt whether lesbian and gay couples cherish the right to marry (yes, we do), and whether our nuptials prompt the "traditional" happy tears and dancing (yes, they do), the marriage door has been slammed on same-sex couples who didn't rush through before Election Day. Now, all of us more easily can broadcast the irrationality of this unkind violation of the Golden Rule.

Each of us can be a change agent. Explain that stronger families strengthen society overall. Rather than accusing Prop 8's supporters of bigotry, let's share this positive message that invites anxious strangers to see our increased security and happiness, to rethink what they value, and to change their view. We invite this change best when we make our commonality visible, show how exclusion injures, and affirm that we all have a stake in an inclusive, mutually respectful future.

—Jennifer C. Pizer
Senior Counsel and Marriage Project Director
for Lambda Legal



MEET VIDEO ACTIVIST AND BOARD MEMBER ALLEN ASCH

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 on the vanguard of fighting for the Bill of Rights every day.

After law school, he became a law clerk for the federal public defender. He volunteered as a cooperating attorney for the ACLU in eastern Missouri and wrote legal briefs and opinions, and helped manage an online message board for the national ACLU’s website. When he and his wife, Michele, an Ob/Gyn physician at Kaiser Permanente, moved to California in 1998, Allen worked for public defenders in 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.



Recently, Asch helped re-establish the Sacramento County Chapter of the ACLU. Soon thereafter, he joined the board of the ACLU of Northern California in May 2007. He serves on the Executive Committee and heads the Field Activist Committee, made up of representatives of each of 18 Northern California chapters.

In the past three years, Asch has taken his activism into a new dimension—YouTube. Under the user name Liberal Viewer, Allen has posted more than 170 videos to the popular Web site. Many raise provocative issues of constitutional rights. Over sixteen million viewers have watched Allen’s videos, some of which feature clips from Fox News and other sources. After making his points, Allen wraps up his postings with two questions for the audience to mull.

His most pointed commentary is often reserved for the media. A recent posting shows Fox News’s Bill O’Reilly vilifying Dr. George Tiller, the physician who devoted himself to reproductive freedom and was killed during services at his Kansas church. In the video, O’Reilly denies condoning such violence, but Asch’s posting suggests otherwise.

Another of Asch’s videos shows family members of murder victims testifying against the death penalty. The *Sacramento Bee*’s coverage of last year’s hearings on the death penalty system included only quotes from death penalty proponents. When Asch’s video pointed out the discrepancy, the paper agreed to publish editorials both for and against the death penalty.

When a member of Allen’s local library board responded to the ACLU’s concerns about censoring Internet access at libraries by exclaiming, “Screw folks’ constitutional rights,” Asch posted a video clip of the board meeting on YouTube. After the local CBS news affiliate in Sacramento picked up the story, the board member apologized. ■

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

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

EVENT: October 18 at 2pm in Albany

ACLU-NC Racial Justice Project Director Diana Tate Vermiere will be speaking about the Schools for All Campaign at the chapter’s annual election meeting at the Albany Senior Center.

The Chapter is seeking new Board Members. Submit statements of intent by October 10 to PO Box 11141, Berkeley, CA 94712.

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

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

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

MARIN COUNTY CHAPTER MEETING: Third Monday of each month from 7–9 p.m. at the San Rafael Corporate Center. For more information, contact George Pegelow at (415) 492-8903 or gpegelow@sbcglobal.net. Or call the Marin Chapter complaint hotline at (415) 456-0137.

MID-PENINSULA CHAPTER MEETING: Fourth Tuesday of each month, from 7–9 p.m. at the Friends Meeting House, Friendship Room, 957 Colorado Ave., Palo Alto. The chapter mailing address is PO Box 60825, Palo Alto, CA 94306. Contact Harry Anisgard for more information: (650) 856-9186.

MONTEREY COUNTY CHAPTER MEETING: Third Tuesday of the month (except August, December, and January) at 7:15 p.m. at the Monterey Public Library, 625

Pacific Street, Monterey. For more information, contact Elliot Ruchowitz-Roberts at (831) 624-1180 or visit www.aclumontereycounty.org. To report a civil liberties concern, call Monterey’s complaint line at (831) 622-9894 (Spanish translation available).

NORTH PENINSULA (DALY CITY TO SAN CARLOS) CHAPTER MEETING: Third Monday of the month. The chapter mailing address is PO Box 51, San Mateo, CA 94401. For more information, contact the chapter hotline at (650) 579-1789 or npenaclu@comcast.net.

PAUL ROBESON (OAKLAND) CHAPTER MEETING: Fourth Monday of each month at the Rockridge Library (corner of Manila and College Ave.), Oakland. For more information, contact (510) 527-6592.

REDWOOD (HUMBOLDT COUNTY) CHAPTER MEETING: Third Tuesday of each month at noon. 917 3rd Street, Eureka. For more information, contact (707) 442-4419 or visit redwoodaclu.blogspot.com.

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

SAN JOAQUIN COUNTY CHAPTER MEETING: Regular meetings. For more information, contact Amarjit Bal at amarjitbal2000@yahoo.com.

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

SANTA CRUZ COUNTY CHAPTER MEETING: Fourth Monday of every month. For more information, contact info@aclusantacruz.org or visit www.aclusantacruz.org.

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

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

STANISLAUS COUNTY CHAPTER MEETING: Third Tuesday of every month from 7–9:30 p.m. at the Modesto Peace/Life Center, 720 13th Street, Modesto. For more information, contact the chapter hotline at (209) 526-4854 or contact stanaclu@earthlink.net.

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

CAMPUS CLUBS

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

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

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

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

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

ASK THE EXPERTS!

SAFE AND FREE

WHY DOES THE ACLU BELIEVE PRESIDENT OBAMA SHOULD RELEASE GOVERNMENT DOCUMENTS AND PHOTOS ABOUT TORTURE?

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 prevent the president from acting as he saw fit. To truly return to the rule of law, we need to ensure that there are

Attorney Ben Wizner of the ACLU's National Security Project explains why accountability for torture and other abuses is necessary in order to restore the rule of law and move the country forward.



Wizner and Khaled El-Masri, following a U.S. Court of Appeals hearing in 2006. El-Masri is a German citizen who was on vacation in Macedonia when he was unlawfully abducted, detained and abused by the CIA under its rendition program.

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.

HAS THE OBAMA ADMINISTRATION MADE PROGRESS TOWARD RESTORING TRANSPARENCY AND ACCOUNTABILITY?

I imagine that many ACLU members have experienced something like whiplash since

President Obama took office. There have been moments of celebration followed by moments of profound disappointment. President Obama deserved our praise when on his second day in office he ordered the closure of Guantanamo prison and secret CIA prisons, and he banned enhanced interrogation techniques. And President Obama deserved our criticism when he continued to evoke the overbroad “state secrets” claims in litigation brought by victims. He has refused to support the appointment of an independent prosecutor for torture, or even a bipartisan commission.

Although he seems committed to preventing some of these abuses occurring during his administration, I think that President Obama is unwilling to confront head-on the legacy of the Bush Administration.

WHAT ARE THE ACLU'S TOP THREE RECOMMENDATIONS FOR RESTORING ACCOUNTABILITY IN GOVERNMENT?

We must investigate the Bush Administration's torture policies and enforce the law wherever the law leads. We should not use flawed military commissions which have no legitimacy in eyes of the world to prosecute people who we are holding. And perhaps most critically, we cannot recreate the Guantanamo detention regime here in the United States by enacting a statute that would permit the indefinite detention of terrorism suspects without trial. ■

Ben Wizner is an attorney with the ACLU's National Security Project.

Interview conducted by ACLU-NC Communications Director Laura Saponara.

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