



ACLU NEWS

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ACLU News

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news

ACLU News - The Newspaper of the ACLU of Northern

California, Winter 2001

Activist Profile: *The UC Berkeley ACLU*

**By Gigi Pandian
Program Assistant**

The UC Berkeley ACLU Club was born just over a year ago, when Freshmen Aaron Ezroj and Matt Murray discovered that the university with the activist reputation was lacking an ACLU.

Chapter President Murray, who cites Ezroj as the driving force behind founding the club, says that one of the reasons he chose to attend Berkeley was because of its open-minded reputation. But while many activist organizations existed on campus, Murray found that most had a specific or partisan focus, and he realized that the majority of students were not involved. By starting an ACLU club and embracing a broad set of issues, Murray and Ezroj hoped to foster participation.

The club's first event was a political debate; representatives from different political student groups were invited to present their views. Other events soon followed, including two forums on racial profiling, one of which featured ACLU-NC Associate Director, Michelle Alexander.

In its short life, the club has accomplished much. Working with the Student Advocates Office, activists succeeded in obtaining racial profiling data from the UC Police Department. This data convinced the group that more specific data collection is needed to draw real conclusions about racial profiling, and this is now one of their core projects. The club has also helped keep free speech flowing in the campus press, writing letters and lobbying the Student Senate not to censure the *Daily Californian* student newspaper for publishing unpopular views. Working with other groups, the ACLU voice was also successful in changing the Student Senate bill for the better.

"The UC Berkeley ACLU is incredible," says ACLU-NC Field Director Lisa Maldonado. "They have been so active on so many campus and civil liberties issues. They are well-organized and do an excellent job of working with other campus allies as well as East Bay ACLU chapters."

Under Murray's leadership as the newly elected President, the club was quick to respond to the events of September 11. Members organized a Teach-In, with speakers including ACLU-NC executive director Dorothy Ehrlich. The BARK (Berkeley-Albany-Richmond-Kensington) ACLU Chapter co-sponsored the event by donating money and banners. The Teach-In was a great success, with over 200 people in attendance, and local television coverage.

Sitting in the Free Speech Movement Café on the Berkeley campus, Murray reflected on his experiences over the past year. The sophomore architecture major says the ACLU club has become a central part of his life. From being immersed in civil liberties issues to learning the ropes of organizing, he feels he and the others involved with the ACLU have learned much outside the classroom.

"Being a part of the ACLU here at UC Berkeley has been one of the most demanding, exciting, and inspiring parts of my life," Murray says. "I wouldn't trade it for the world."

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Artists as Activists: *Rights Day Celebration Honors Ossie Davis and Ruby Dee*

By Elaine Elinson

"I can't imagine art without struggle and I can't imagine struggle without being knee-deep in the middle of it." With these thundering words actor Ossie Davis summed up six decades of artistry and activism. Davis, along with Ruby Dee, his wife, was honored with the 2001 Earl Warren Civil Liberties Award at the ACLU-NC Bill of Rights Day celebration on December 16.

The celebration, which drew 1,000 ACLU supporters to the Argent Hotel in San Francisco, also featured a tribute to the first decade of the Howard A. Friedman First Amendment Education Project (#see sidebar page 6#), exhilarating performances by the Taco Shop Poets and the San Francisco Mime Troupe and a State of the Union address by Executive Director Dorothy Ehrlich, who spoke of the extraordinary challenges facing the ACLU in the wake of the September 11 crisis (*for an abbreviated version of Ehrlich's speech, [click here](#)*).

Author, activist and U.C. Santa Cruz professor Angela Davis presented the Earl Warren Award to Davis and Dee. "They have been associated with literally every progressive movement for justice and peace for #at least # the last fifty years," Davis said. "How auspicious it is for us to gather at this time when civil liberties is under attack, to honor these two people. Never have we had to worry that Ossie and Ruby would be frightened away from anything!"

Ruby Dee and Ossie Davis met in 1946 when they performed in the American Negro Theater production of "Jeb," a play about a black soldier returning from World War II to face racism in the United States, a drama that mirrored Davis' life at the time.

"Never have we had to worry that Ossie and Ruby would be frightened away from anything!"

- Angela Davis

Their film debuts came soon afterward - with Sidney Poitier in "No Way Out," followed by lead roles on Broadway in "Raisin in the Sun." But they risked their careers by resisting McCarthyism. Targeted for being active in the Emergency Civil Liberties Committee and the National Committee to Abolish the House Un-American Activities Committee, they were branded "Racial Agitators and Communist-Fronters." They once eluded government agents by hiding in a costume hamper following a performance of Chekhov's "The Cherry Orchard."

Undaunted, they remained on the forefront of the fight for social justice. They spoke out against the Vietnam War, nuclear testing and apartheid. They served as MCs for the 1963 Civil Rights March on Washington. Davis delivered eulogies at the funerals of both Martin Luther King, Jr. and Malcolm X, and in 1999, visited Mumia Abu Jamal on death row.

Dee said that she was enormously grateful to receive the award from the ACLU and was deeply moved by the sea of faces she saw. "Most of the good things we enjoy in America come from people like us: the fighting people," she said, as the "fighting people" in the audience responded with a standing ovation.

On stage and film Davis and Dee have excelled as collaborators and individual artists. Their outstanding work has brought them numerous awards, including ten Emmy nominations, the NAACP Image Award, and the National Medal for Lifetime Achievement in the Arts presented by President Clinton in 1995.

"Why should there be a dichotomy between art and activism?" Davis asked the appreciative crowd. "When Ruby and I came into the theater it was an act of progress for our people. We admired Paul Robeson - going up and down the country causing hell against evil-doers. That is the original function of art - to change human beings by reaching them through imagination."

Dee closed her remarks with a dramatic, optimistic recitation of her own composition "The Dream Droppers," ending with the lines:

From time to time though
I sneak a peak around a corner
To see if one of those explosive ethereal
Dangerous aspirations
Takes hold, stays alive. Grows.
Because every now and then
A dream does put on flesh, stands tall
And walks!
A dream does happen every once in a while, you know.

The theme of the celebration, "Artists as Activists," was brought to life by the opening act, the Taco Shop Poets, who make a practice of taking over taco shops throughout the state with spoken word and song. Later, the San Francisco Mime Troupe sang a medley covering everything from "Three Strikes" to the muzzling of the press and the challenges of multiracial coalition building. Members of the audience, some of whom remembered the ACLU-NC's representation of the Troupe when they were busted for obscenity by the San Francisco police in the 1960s, stomped their feet and sang along with their rousing finale, "It's Time to Repudiate the Politics of Hate."

The event was organized by Field Director Lisa Maldonado with assistance from Gigi Pandian. Susana Millman donated the beautiful photographs of the event.

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Charges Dismissed in Police Complaint Case

By Stella Richardson

It was two in the morning on February 10, 2000. After an 18-hour workday flight attendants Kimberly Joan Reed and Rita Lena Jamerson were driving home on I-80 from San Francisco to Reno, Nevada, when a California Highway Patrol (CHP) officer stopped the women for speeding at 78 miles per hour. Three days later, when the women complained to the CHP that the officer was rude, discourteous and caused them to be afraid, they never imagined they would face criminal charges.

But when a CHP investigator concluded that their complaint was false, Reed and Jamerson were charged with violating Penal Code 148.6, which makes it a misdemeanor to file "any allegation of misconduct against any peace officer... knowing the allegation to be false."

ACLU-NC legal director Alan Schlosser soon joined the defense team, arguing that the statute violates First Amendment rights. On October 18, 2001, Solano Superior Court Judge Ramona Garrett agreed, dismissing the charges against the women and stating: "Penal Code 148.6 offends the First Amendment to the Constitution of the United States. I formally declare that statute to be unconstitutional." The County has filed an appeal.

"Judge Garrett's decision is a victory for free speech," said Schlosser. "Giving police agencies the power to retaliate against citizen complainants with criminal prosecutions - coupled with the statutory requirement that a warning about possible criminal prosecutions be printed in bold face on all complaint forms - plainly has a chilling effect on the willingness of citizens to speak out about police misconduct. It is critical that the First Amendment right to petition the government about grievances involving police officers be protected."

The statute is unconstitutional because it discriminates on the basis of the content of the speech -- only citizen complaints against the police are unprivileged and subject to criminal and civil libel sanctions, Schlosser explained.

The ACLU has observed a statewide pattern of retaliatory legal actions by law enforcement officers against citizen complainants. These have included criminal charges under Penal Code section 148.6 and lawsuits under Civil Code section 47.5, which gives police officers special rights to sue for damages when they claim that a citizen's complaint is false. The ACLU is aware of over twenty such legal actions.

So far, three federal district courts have held unconstitutional either Penal Code 148.6 or Civil Code 47.5. On October 30, the California Court of Appeal ruled in *People v. Stanistreet* that the criminal statute violates the First Amendment. On November 28, another state Court of Appeal ruled in *Walker v. Kiouis* that the civil statute was unconstitutional on its face. The ACLU of Southern California submitted amicus briefs in both cases.

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Groups Sue Governor For Racial Profiling Power Grab

By Stella Richardson

California Governor Gray Davis exceeded his authority when he eliminated key racial profiling data collection requirements from the 2001 budget, according to a lawsuit filed November 1 by the California League of United Latin American Citizens (LULAC), the California Conference of NAACP Branches, victims of racial profiling, and taxpayers.

California's First District Court of Appeal in San Francisco granted a stay the same day, preventing state officials from disbursing money to law enforcement agencies unless they collect *all* data specified by the Legislature. The case, *NAACP, et al. v. Davis, et al.*, is expected to define with more clarity the balance of power between the state's legislative and executive branches.

"For several years, Davis has done everything in his power to block data collection legislation and thwart progress on the issue of racial profiling," said Michelle Alexander, Associate Director of the ACLU-NC. "Now Davis has actually exceeded his powers under the state constitution in his misguided zeal to block meaningful reform."

The Budget Act of 2001 appropriated approximately \$3,000,000 to the California Highway Patrol for grants to local law enforcement agencies for the costs of collecting racial profiling data. The Act provided that the grants "shall *only* be available to local law enforcement agencies that collect *all* of the following data," including the race and ethnicity of the motorist, the reason for the stop, whether a search was conducted, whether contraband was found in the course of the search, and whether an arrest was made. On July 26, with a stroke of his pen, Davis eliminated all provisions except the one requiring agencies to collect data on the race and ethnicity of the motorist.

"Under the state constitution, the Governor can veto the Budget Act in its entirety or reduce the amount of an appropriation," explained Jonathan Weissglass, attorney at the law firm of Altshuler, Berzon. "He cannot, however, re-write the bill, gutting it of its relevant provisions. In our democracy, only the Legislature gets to write bills."

Among the eliminated provisions is the requirement that law enforcement agencies collect search data. In the class action lawsuit, *Rodriguez, et al. v. California Highway Patrol et al.*, search data showed that drug interdiction officers in the Central and Coastal Divisions were three times as likely to search Latinos as whites, and African Americans were twice as likely to be searched. As a result, the CHP issued a six-month moratorium on consent searches - the practice of obtaining consent to search motorists even when there is no probable cause to believe they have engaged in any criminal activity.

The ACLU of Northern California and the law firm of Altshuler, Berzon, Nussbaum, Rubin & Demain represent the petitioners.

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New Voices of Liberty - *The ACLU Youth Rights Conference*

By Amelia Rosenman

If our future lies in the hands of the children, then the 2001 ACLU Youth Rights Conference heralded great news. On November 13 more than 900 students representing northern California schools as far flung as Ukiah, Watsonville, Oakland and Davis attended the Youth Advisory Committee (YAC)'s daylong conference at UC Berkeley.

The conference focused on civil liberties during times of social upheaval, exploring a variety of topics that affect young people's rights. ACLU-NC board member André Herron kicked off the day discussing how our country's current policies and practices pose an extra threat to the civil liberties of all Americans. Her words established a pertinent context for the two sessions of intensive hour-long workshops to follow. Students chose from a wide range of subjects including racial profiling, immigration discrimination, independent media, un-teaching hate, and the UN Conference on Racism. Facilitated by YAC members, each workshop included an expert presentation and group discussion.

As Castro Valley High School senior Lauren Stower said, the conference was "a much-needed gathering of people" that provided youth with "an alternative source of information."

The conference had an impact on those presenting at the conference, as well as on the youth who took part. "Young people have decided civil liberties actually impact their lives," said Thenmozhi Sonndararajan, who spoke as a panelist for the workshop on independent media. As Executive Director of Third World Majority, Sonndararajan makes a living providing people with alternative sources of information.

Especially during this time of political uncertainty, Sonndararajan suggested, it is important to question everything we see or hear. The workshop generated a list of independent media sources and

*Though they
came as
strangers, they
left with a
common bond.*

-- Luis Ochoa,
Youth Advisory
Committee Member

warned students not to rely too heavily on one source alone. "We only know what we hear on TV," said Kahrer Molvig, a sophomore at Lick-Wilmerding High School in San Francisco. The independent media workshop sought to broaden that knowledge base, challenging students to reevaluate the mainstream media and think about how the news influences their ideas and opinions.

Down the hall, the workshop discussing the UN Conference on Racism tackled issues of international racism and youth involvement in creating solutions. "It's important for us to know what the country we live in is doing internationally," Vallejo High senior and YAC facilitator Lindsay Waggerman said.

During the workshop, students learned about the worldwide conference from activist and former YAC member Raha Jorjani. Jorjani, who attended the NGO forum and youth summit in South Africa, alerted students to issues about the conference barely mentioned in the press. She said that the United States' decision to pull out of the conference "greatly calls into question what we, as a nation, have truly achieved in the area of civil rights and equality. This includes our understanding of the links between past and present oppression and our commitment to the very rights expressed in this country's Constitution and Bill of Rights."

Students brainstormed about the roots of racism and proposed methods for combating racism on the individual, national, and international levels. Jorjani also told the students about the youth summit that paralleled the United Nations meeting, where, she said, adults tended to dominate and control the agenda. "It was inappropriate for youth voices to be somewhat marginalized in a space that was supposedly created with our voices in mind, especially since the youth conference was already limited in terms of time and resources," she said.

In contrast to the gathering in South Africa, the ACLU Youth Rights Conference truly was a youth space, run by and for young people. Luis Ochoa, a junior at San Francisco School of the Arts and a YAC member, felt the conference tied students together. "Though they came as strangers, they left with a common bond: They were all affected by the system," he said. Equipped with new knowledge and awareness of "the system", this body of youth will work together to embrace and improve their civil liberties for years to come.

Amelia Rosenman is a sophomore at Lick-Wilmerding High School in San Francisco and a member of the YAC.

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The New War on Civil Liberties

By Rachel Swain

When Congress passed the USA-PATRIOT Bill on October 26, civil libertarians wondered whether the September 11th backlash had reached its zenith.

In short order we learned that worse was yet to come.

The sweeping legislation passed by Congress in response to the tragic attacks now pales in comparison to the draconian agenda pursued by the Bush Administration. In moves that usurp the traditional powers of Congress and the courts, the Administration has seized extraordinary powers for the executive branch and created an alternative justice system with which to wage its war on terrorism.

"No one questions the government's right - indeed its responsibility - to conduct a thorough and complete investigation," said ACLU Legal Director Steven R. Shapiro. "From the beginning, however, this Administration has conducted an investigation designed to minimize any outside scrutiny of its actions and frustrate the system of checks and balances."

To date, the Department of Justice (DOJ) has detained over 1,200 people in connection with its investigation, the vast majority of whom have been charged with minor visa violations. The government has kept a shroud of secrecy over the detentions, refusing to respond to requests for information by the ACLU and other groups, despite undisputed reports that only 27 detainees have any ties to the attacks. "It is a system," says ACLU-NC Executive Director Dorothy Ehrlich, "where people actually disappear."

The ACLU and 15 other organizations filed the first lawsuit regarding the mass detentions on December 5, demanding the release of essential information under the Freedom of Information Act.

Trespassing on the Constitution

Attorney General John Ashcroft has trespassed all too frequently on the edges of the Constitution. Arguing that plans for future attacks could leak from jail cells to terrorist cells, on October 31 Ashcroft invoked "emergency authority" to permit eavesdropping on

conversations between detainees and their attorneys if he determines there is "reasonable suspicion" that their communications "may" be used to further acts of terrorism. Denouncing this as an "unprecedented frontal assault on the attorney-client privilege and the right to counsel guaranteed by the Constitution," the ACLU and 18 organizations called on the Attorney General to rescind his order.

On November 9, Ashcroft issued a directive to the FBI and law enforcement to conduct "voluntary" interviews of 5,000 men aged 18 to 33 who entered the U.S. on non-immigrant visas from specific countries in the last two years. Characterizing the roundup as "inherently coercive" and unconstitutional, ACLU affiliates and community groups around the nation moved swiftly to launch hotlines, offer assistance to interviewees, and urge local police not to take part in the discriminatory dragnet.

"The trust between U.S. government, including law enforcement agencies, and the Arab community has been eroded over the past few weeks by denial of due process, by revoking of attorney-client privileges, by arbitrary and extended detentions, and by casting the investigative net so broadly as to implicate thousands of innocent people," said Khalil E. Jahshan, Vice President of the Arab-American Anti-Discrimination Committee. Citing concerns about racial profiling and community relations, police departments from San Jose, California to Austin, Texas refused to assist federal agents.

Even the dragnet was not enough. In an ominous reminder of government abuses during the eras of McCarthyism and COINTELPRO, the Administration announced its intent to spy on religious institutions and political groups, rolling back restrictions to pre-Watergate days.

Military Tribunals

Perhaps the *coup de grace* was President Bush's executive order that permits non-citizens suspected of terrorism to be tried in military tribunals. Conducted in secret before a panel of military officers, the tribunals can convict and execute people on a two-thirds vote, use secret evidence and do away with the presumption of innocence.

The tribunals sparked a firestorm of protest, signaling to many that the Administration had gone too far. The mainstream media, which had heretofore muffled dissent with jingoistic fervor, broke ranks and unleashed a barrage of critical editorials. European nations said they would not extradite suspects to the United States. And for the first time, in early December a **New York Times/ CBS** poll indicated that public opinion had turned a corner, with nearly 65 percent of respondents saying they worried about losing their rights and feared that the anti-civil liberties forces may have gone too far.

Ashcroft Called to Testify

A concerned Senate Judiciary Committee called Ashcroft to account for his actions. "Throughout this investigation, the Administration has adopted a 'trust us we're the government,' attitude," said ACLU President Nadine Strossen in testimony before the

Committee. "But for our democracy to thrive, Congress must cast a skeptical eye over any attempt by the executive branch to amass new powers."

In an attack on free speech that raised eyebrows across the nation, Ashcroft mounted a fierce defense of his agenda, dismissing the concerns of his detractors as "phantoms" and accusing those who voiced dissent of "giving ammunition to terrorists."

An American Roundtable

In spite of the chilling effect of the government's efforts to seize power and stifle dissent, a vigorous debate is swelling across America. Initially quiet out of respect for the victims, awe at the sheer scale of the attacks, and caution about moving too fast into uncharted territory, critics are raising their voices and America is listening.

If not our precious freedoms, they ask, what are we fighting to defend?

On one side sit those who say "safety first, at any cost." On the other, urging balance and restraint, stand the ACLU, allied organizations and hundreds of thousands of supporters. Ranged across the middle is the rest of America.

This December, the ACLU brought that debate to the pages of the *New Yorker* in "An American Roundtable", a special advertising feature that captures a staggering range of perspectives from a diverse group of Americans.

"We're supposed to be protecting freedom, but instead we are profiling people from certain parts of the world and taking away their liberties," says Farhat H. of Monmouth, Illinois. "As a new American I have absolutely loved the Constitution - the freedoms and liberties. I would die for that, to protect that."

But, asks Lynn S. of Pittsburgh, Pennsylvania: "If you are a person not of American citizenry, why should you get the same rights that I get?"

"If the government wants to listen to my conversations, fine," says Jordan S. from Baltimore, Maryland. "It doesn't bother me. I have nothing to hide." Steven B., also of Baltimore, has a different perspective: "You could think you have nothing to hide, but if you had a book or pamphlet in your house - something from the Middle East - or if you wanted to know another point of view, the government could always interpret that as being something incriminating."

To continue the conversation, visit www.aclu.org/safefree.

Defenders of Liberty

The ACLU has stood up to defend our safety and liberty consistently in the weeks since September 11. Here are some of the recent highlights of our work.

Lawsuit on Mass Detentions

On December 5 the ACLU and 15 other organizations filed the first lawsuit requesting information about the individuals detained since September 11. The lawsuit followed letters and meetings with officials, as well as an October 29 request for information under the Freedom of Information Act. The organizations are seeking, among other things, release of the detainees' names and details of where, why and for how long they are being held. "The basic information that the ACLU and other citizens' groups have been requesting is not classified or privileged, nor could its release raise any legitimate national security concerns," said ACLU President Nadine Strossen.

Justice Department Dragnet

When the Justice Department issued its directive to interview 5,000 non-immigrants, the ACLU-NC and other affiliates sought to dissuade local police departments from participating. Told that many northern California departments would not take part, but that Fremont, home to a large Muslim population, would, the ACLU joined forces with community organizations to urge the Fremont police to reconsider. Our open letter garnered crucial media attention. Next, when we learned that 85 men in northern California had been targeted for questioning, we teamed up with the Arab-American Anti-Discrimination Committee, National Lawyers Guild and the Lawyers' Committee for Civil Rights to publicize a new hotline for interviewees. That number is 415-285-1055.

Anti-Hate Hotline

More than 65 calls have come into the racial profiling hotline launched by ACLU-NC on September 12. From Muslim schoolchildren singled out by teachers, to adults barred from airplanes, the calls exemplify the breadth and depth of the backlash. Our legal team is monitoring calls closely. The hotline number is 415-621-2493 x322.

Facial Recognition Technology

As debate raged across the nation on the pros and cons of national ID cards and facial recognition technology, Fresno airport quietly installed an experimental facial recognition system. Arguing that this unreliable technology would do little to keep Americans safe, but much to invade their privacy, the ACLU-NC sent an open letter asking the airport to take down the system. Although Fresno stood by the technology, the publicity sent an important message: that airports cannot expect to install untested and invasive monitoring systems without public scrutiny.

Speakers Bureau

With requests for speakers for schools, universities and community centers flooding the office, the ACLU-NC staff needed help. We organized a speakers training on post-9/11 issues for board members and chapter representatives and created a rapid response speakers bureau. For more information, contact Field Director Lisa Maldonado on 415-621-2493.

Chapter Events

With the help of the Field Department, the Monterey, Berkeley Albany Richmond

Kensington (BARK), UC Berkeley, Paul Robeson, Santa Cruz, Sonoma and Hastings Chapters have hosted local forums on USA-PATRIOT and the war on terrorism. Please let the Field Department know if you need assistance to organize a forum.

Media

The ACLU-NC has responded to approximately 300 media calls on September 11 issues. As well as publicizing our hotlines, "Know Your Rights" brochures, and letters to the Fremont police and Fresno airport, we have placed spokespersons in media across the region and generated op-eds and letters in the *Daily Journal*, *Contra Costa Times* and other newspapers. The national ACLU has fielded thousands of media calls, sent representatives into combat on every network from *CNN* to the *Comedy Channel*, and placed profiles of Executive Director Anthony Romero in the *Wall Street Journal*, *New York Times* and other major outlets.

"Know Your Rights" Outreach

Free copies of the ACLU's brochures: "Know Your Rights: What to do if you are stopped by the Police, the FBI, the INS or the Customs Service" are in high demand. The ACLU-NC has distributed close to 5,000 copies in [English](#), [Spanish](#) and [Arabic](#), with advance orders for copies in [Punjabi](#), [Hindi](#), [Urdu](#) and [Farsi](#). To order bulk copies, visit www.aclunc.org or fill out the form on page 8.

Safe and Free

Visit the ACLU's website at www.aclu.org for updates on the national campaign to keep America safe and free. Sign up at www.aclunc.org to become an e-activist and receive action alerts on pressing issues from the national office and from northern California.

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Obituary

Alice Hamburg, 96, Peace Activist

By Elaine Elinson

Nonagenarian Alice Hamburg died as she lived, fighting for peace in a world of war and injustice. Hamburg, founder of the Women's Strike for Peace in 1950, died of natural causes at her Berkeley home on November 19. "Our motto is justice," she told the *San Francisco Chronicle* at a protest against the U.S. bombing of Afghanistan just weeks before her death, "I don't know if we will see rapprochement with our enemies in my own lifetime, but I owe it to my progeny to help us get there."

Hamburg's passion for civil liberties made her a longtime supporter of the ACLU. She was in the Freedom Circle of donors to the ACLU-NC Foundation and was a constant presence at ACLU meetings and Bill of Rights Day Celebrations. In her memoir, "Grass Roots: From Prairie to Politics, The Autobiography of Alice Sachs Hamburg," Hamburg recommends that her readers support the ACLU, as "it helps to bring about the conditions for a peaceful world."

The book, which was published on December 1, documents Hamburg's journey from a North Dakota homestead to rural classrooms in the San Joaquin Valley to battles with the infamous Burns Committee, California's version of HUAC. Interrogated by the Committee in 1951, Hamburg told the Committee that their interrogations "constituted a flagrant violation of all the democratic principles which are our great American heritage."

Hamburg became active in the civil rights movement, the anti-war movement and the campaign for nuclear disarmament, leading delegations to South Africa, Japan and the Soviet Union. In 1987, she celebrated Mothers Day by organizing a trespass and protest at the Nevada nuclear test site

"Alice Hamburg's early understanding of the forces of greed and injustice fueled her lifelong passion for social change," said Dorothy Ehrlich, Executive Director of ACLU-NC. "She was a remarkable and irreplaceable activist."

Hamburg was awarded for her work by the City of San Francisco and the Berkeley Commission on the Status of Women; in 1997, the Jane Addams Peace Association honored her "Fifty Years on the Front Lines."

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Remembering Internment

During World War II, ACLU-NC was the only organization to challenge the internment of 120,000 Japanese Americans. On November 3, 2001, the ACLU-NC co-sponsored with the Japanese Cultural and Community Center of Northern California (JCCCNC), the



San Francisco Public Library and American Friends Service Committee an event called *Perseverance and Survival: Communities Redefined by America's Concentration Camps*. Contributors to the anthology "From Our Side of the Fence: Growing Up in America's Concentration Camps" read poignant memoirs about their wartime experiences. ACLU-NC's Stan Yogi was on hand to discuss the current threats to civil liberties. This photo depicts members of the Committee Against Nihonmachi Eviction, a group formed in 1973 to protest evictions resulting from the redevelopment of San Francisco's Japantown (or Nihonmachi).

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Sacramento Report

Legislative Review and Preview: 2001-2002

By Francisco Lobaco

Electricity Crisis - Does Anyone Remember?

Before September 11, the 2001 legislative year could be summed up in one word - electricity. For most of the year the attention of the Legislature and the Governor was consumed with efforts to solve the looming electricity crisis. "Kilowatts" became the most often heard word in the Capitol. The primary result of the endless hearings was a \$6 billion hit on the General Fund to buy electricity - which all hope will be paid back to lessen the "shock" of the fiscal deficit the state faces in 2002.

On the civil liberties front, it was a surprisingly productive year in Sacramento. The ACLU pursued its most proactive legislative agenda in recent memory, with six bills becoming law. However, while Governor Davis was taking credit for signing the few good bills that reached his desk, behind the scenes he was cajoling Assembly Democrats to stall numerous other progressive bills, including various ACLU sponsored bills.

The results for the year include: **six** significant wins, **two** gubernatorial vetoes, and **four** stalled bills, some of which are likely to reappear on the floor next year.

(see [*Civil Liberties Scorecard*](#))

A Growing Network of Grassroots Activists

This year, Californians sent approximately 1,000 faxes to their individual legislators urging passage on each of two bills - AB 788 (racial profiling) and SB 773 (financial privacy). As our network of e-activists grows, we anticipate increasing our ability to influence legislation still further.

2002 Legislative Preview - September 11 Backlash

2002 will be a difficult year for civil liberties. The tragic events of September 11 resulted in the passage at the federal level of anti-terrorism legislation filled with anti-civil liberties

"2002 will be a difficult year for civil liberties"

"The ACLU will strenuously oppose all efforts to erode the civil liberties of Californians."

provisions which expanded governmental powers to invade our privacy, imprison persons without due process and punish dissent. We can expect legislators in California to try to enact similar legislation.

The Legislative Office will be required to devote much of its time and energy to fight the onslaught of these bills. In particular, we will see efforts to greatly expand the ability of law enforcement to conduct surveillance through wiretapping, create expansive definitions of terrorism that could affect those engaged in civil disobedience, and expand the use of biometric devices for surveillance purposes. The ACLU will strenuously oppose all efforts to erode the civil liberties of Californians.

The combination of a looming deficit and an election year will make it difficult to pursue major initiatives. Nevertheless, the ACLU will pursue the legislative agenda begun in 2001, including trying to ban the execution of the mentally retarded, providing consumers better financial privacy protections, and expanding civil rights protections for all Californians.

The Assembly will remain in Democratic hands and will elect a new Speaker in 2002 - Herb Wesson from Los Angeles, a strong supporter of civil rights. The Senate will also continue under Democratic control, under the leadership of President Pro-Tem John Burton from San Francisco, a longstanding friend of civil liberties. The newly redistricted lines will likely keep both houses of the Legislature in Democratic control for the immediate future.

Finally, the results of the vote on Proposition 45 on the March 2002 ballot will be big news in Sacramento. Proposition 45 would soften the impact of term limits by permitting, under certain circumstances, a legislator to seek up to an additional four years in office. Legislators, as well as members of the "Third House" (lobbyists) will be keenly watching the outcome of this vote.

CIVIL LIBERTIES SCORECARD 2001		
Civil Liberties Victories	Civil Liberties Stalls	Civil Liberties Vetoes

<p>AB 800 (Wesson-D) is a major victory for language rights. The law will ban English-only workplace rules unless justified by business necessity</p>	<p>AB 1512 (Aroner-D), which bans the execution of the mentally retarded in California, was stalled in the Assembly Appropriations Committee. Despite widespread public support and the passage of similar legislation in more conservative states, the Assembly Democratic leadership requested the bill be held, not wanting moderate Democrats voting on a bill that could be construed as "soft-on-crime".</p>	<p>SB 320 (Alarcon-D) required data collection on the race, sex, learning disability and primary language of suspended and expelled students, and required that homework assignments and tests be given to students while they are suspended, when requested by a parent. The Governor inexplicably stated in his veto message that the bill "removes a district's authority to determine locally how to meet the academic needs of suspended students." One of the reasons the ACLU sought the legislation was the failure of school districts to meet the academic needs of suspended students.</p>
<p>AB 25 (Migden-D) provides numerous new benefits to registered domestic partners.</p>	<p>the Assembly Democratic leadership requested the bill be held, not wanting moderate Democrats voting on a bill that could be construed as "soft-on-crime".</p>	<p>The Governor inexplicably stated in his veto message that the bill "removes a district's authority to determine locally how to meet the academic needs of suspended students." One of the reasons the ACLU sought the legislation was the failure of school districts to meet the academic needs of suspended students.</p>
<p>AB 1084 (Migden-D) restores the collection of race and gender data on the more than \$6 billion of state contracts awarded every year.</p>	<p>the Assembly Democratic leadership requested the bill be held, not wanting moderate Democrats voting on a bill that could be construed as "soft-on-crime".</p>	<p>The Governor inexplicably stated in his veto message that the bill "removes a district's authority to determine locally how to meet the academic needs of suspended students." One of the reasons the ACLU sought the legislation was the failure of school districts to meet the academic needs of suspended students.</p>
<p>AB 540 (Firebaugh-D) allows California high school graduates to pay in-state tuition for state universities and colleges regardless of immigration status.</p>	<p>AB 788 (Firebaugh-D), which embodied our continuing effort to require mandatory racial profiling data collection by law enforcement officers, was stalled on the Assembly Floor after Davis Administration officials and law enforcement allies lobbied Democratic Assembly Members asking them not to vote for the bill.</p>	<p>The Governor inexplicably stated in his veto message that the bill "removes a district's authority to determine locally how to meet the academic needs of suspended students." One of the reasons the ACLU sought the legislation was the failure of school districts to meet the academic needs of suspended students.</p>
<p>SB 780 (Ortiz-D) provides state prohibitions against forcibly interfering with those obtaining or providing reproductive health services.</p>	<p>the Assembly Democratic leadership requested the bill be held, not wanting moderate Democrats voting on a bill that could be construed as "soft-on-crime".</p>	<p>AB 675 (Migden-D) was a particularly disturbing veto by the Governor. This simple bill streamlined and made more accessible the compassionate release process for dying prisoners by requiring the California Department</p>
<p></p>	<p></p>	<p></p>

	<p>SB 1196 (Romero-D), another ACLU sponsored bill, met a similar fate. This important civil rights bill responded to recent U.S. Supreme Court decisions cutting back on civil rights protections by explicitly waiving the state's 11th Amendment immunity from numerous federal civil rights laws, including the Americans with Disabilities Act (ADA). The bill remains pending in the Assembly Appropriations Committee.</p>	<p>of Corrections to keep the prisoner and his or her family apprised at each stage of consideration. The release of terminally ill prisoners who no longer pose a threat to the public safety saves state taxpayers hundreds of thousands of dollars and provides these women and men with appropriate end-of-life medical and palliative care. The Governor indicated in his veto that the bill was too expensive and "could result in the release of violent offenders resulting in risk to public." This cruel veto further solidified Governor Davis' abysmal record on criminal justice.</p>
	<p>SB 773 (Speier-D) failed to curry favor on the Assembly floor. One of the most heavily lobbied bills of the year, SB 773 provided Californians with a right to privacy in their financial records and required their consent to share their information with other financial institutions.</p>	

Ward Connerly Watch

Ward Connerly, who brought Californians Proposition 209, the ballot initiative that rolled back affirmative action in the state, is on the march again. Connerly is currently gathering signatures to qualify for the November 2002 ballot the so-called Racial Privacy Initiative. This measure, which would bar state agencies from collecting data on race, poses a grave threat to our ability to monitor and stamp out discrimination in health, housing, employment, the criminal justice system and more. Look out for the next issue of the **ACLU News** for more information.

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Staff Changes at the ACLU-NC

The last few months have been a period of change, as we wave farewell to old friends, welcome new staff and board members, and see some familiar faces move into new roles.

Jayashri Srikantiah has joined the affiliate as Staff Attorney after three years at the ACLU Immigrant Rights Project, where her work included serving as a lead attorney on the high profile immigrant trafficking case *United States v. Reddy*. Before joining the ACLU staff, Srikantiah, who received her JD from New York University School of Law, worked as an associate at Howard, Rice, et al. "I hope to participate in continuing this affiliate's outreach to communities of color, especially immigrant communities," says Srikantiah. Srikantiah replaces **Ed Chen**, who was inducted as a Federal Magistrate Judge this fall.

Rachel Swain accepted the position of Communications Director on September 12, recognizing in the wake of the attacks, she says, that "the ACLU is destined to be on the frontlines of some major battles in years to come." Swain, who worked most recently as an independent consultant, was previously a senior manager at public relations firm Communication Works (now Fenton Communications West), where she managed campaigns on some core ACLU issues, including juvenile justice, drug policy and the death penalty. Swain takes over from **Elaine Elinson**, who remains with the department as a consultant.

Racial Justice Project Director **Michelle Alexander** takes a new position as Associate Director. Alexander, who conceived the highly successful *Driving While Black* (DWB) campaign, will direct the work of the affiliate on proactive campaigns.

Alan Schlosser joined the affiliate as Staff Counsel in 1976 and served as Managing Attorney from 1994-2000. Now, Schlosser is taking on a new role as Legal Director, where he will oversee the affiliate's litigation strategy and work with Alexander to integrate the work of the legal department with that of other departments.

Robert Nakatani, who serves as Director of Development for the National Lesbian and Gay Rights and AIDS Projects has joined the affiliate as part time Endowment Campaign Director. Nakatani was formerly Director of Planned Giving at ACLU-NC.

Arthur Liman Public Interest Fellowship

Kenneth J. Sugarman joined the Racial Justice Project (RJP) in September 2000 with a fellowship from the Arthur Liman Public Interest Fellowship and Fund at Yale Law School. He remained with ACLU-NC through December 2001, working on the class action racial profiling lawsuit *Rodriguez, et al. v. California Highway Patrol, et al.*, on the recent suit challenging Governor Gray Davis' veto of key data collection provisions in the 2001 Budget Act and on numerous other projects. "I am grateful to have been provided the opportunity to work alongside the ACLU-NC staff on civil liberties," says Sugarman. "My only regret is that the fellowship was too short."

Board Elections Results

Thanks to all of you who took the time to vote in the board elections. ACLU-NC is proud to welcome as new board members **Larisa Cummings**, the **Reverend Roy Matthews** and **Susan Freiwald**. The new members of the Executive Committee are **Nancy Pemberton** (Treasurer), **Donna Brorby** and **Ramon Gomez**.

We thank outgoing board members **Susan Mizner**, **Dick Grosboll** and **Chris Wu** for their service.

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State Supreme Court Weighs Proposition 21

By Stella Richardson

The stakes were high in the crowded courtroom on Wednesday, December 5. Reporters, scholars and activists flocked to the California Supreme Court in Los Angeles to watch as the Court heard argument in a landmark case that challenges the constitutionality of Proposition 21, the largest crime-related initiative in California history.

Eleven legal scholars and over 40 organizations, including the ACLU-NC, the League of Women Voters of California and the California Teachers' Association, submitted amicus briefs urging the Court to strike down Proposition 21. They argued that the initiative strips courts of their powers, violates state law governing the scope of ballot initiatives and poses a grave threat to California's youth.

The Supreme Court granted review in *Manduley v. Superior Court*, in which the San Diego District Attorney is prosecuting eight youths as adults, after the Fourth District Court of Appeal ruled that Proposition 21 unconstitutionally transfers from judges to prosecutors the authority to decide whether a child can be tried as an adult. The Court decided to address all challenges to the law, including whether the measure violates the state's single subject rule, which limits the scope of ballot initiatives to one subject. Proposition 21, critics contend, contained a vast array of unrelated measures: from changes to the adult criminal justice code to the establishment of gang registries in every municipality.

"The juvenile court is a system where broad judicial authority is a defining element of the institution," said Franklin Zimring, Law Professor at U.C. Berkeley's Boalt School of Law. "Proposition 21 contains a series of obscure and complex provisions that amount to a wholesale invasion of judicial branch authority."

"At stake in this case is the legitimacy of voters' choices at the ballot box, the independence of the judicial system and the welfare of youth in California," said Robert Kim, Staff Attorney at the ACLU-NC. "Rarely does a case present such a confluence of important topics."

It is unclear which way the Court will rule on either issue, according to Kim. A decision is expected early in 2002.

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The State of the Union 2001

By Dorothy Ehrlich

This is an abbreviated version of Dorothy Ehrlich's remarks at Bill of Rights Day, December 16, 2001.

One year ago, in December 2000, when we celebrated Bill of Rights Day it seemed that we were living in the most dramatic moment in history. We could barely pull ourselves away from the television screen and the latest news on who was going to be the 43rd President of the United States. John Ashcroft had just lost his Senate seat - to an opponent who had died.

We knew that the outcome of the election would have a significant impact, both in terms of the Supreme Court's prestige and the right of the people to elect their President. And of course, even as a non-partisan organization, we were deeply concerned about the future of civil liberties under a Bush Administration.

Those worries were realized just days later when the Court selected a President. They were compounded weeks later with the confirmation of John Ashcroft as Attorney General. Now we had a specific agenda to fear: we had an aggressive fight for reproductive rights on our hands, as well as a battle over government-funded religion.

One year later, to be dealing with those issues alone seems almost nostalgic. For at the end of 2000 we could not have imagined the tragic events of September 11 - and how the understandable fear that that day provoked would be turned into an agenda: an agenda ostensibly designed to make us safer, but which, instead has precipitated an abandonment of the rights and liberties that distinguish us as Americans.

"Today we face threats that are more complex, more sweeping, and perhaps more permanent than any that galvanized us in the past."

The ACLU was founded in the 1920s in response to the Palmer Raids, when Attorney

General A. Mitchell Palmer rounded up thousands of activists and jailed them for their political beliefs. Many were legal immigrants and they were summarily deported without even a semblance of due process. At that time, an editorial in the *New York Times* dismissed the ACLU as a "little group of malcontents, an unimportant and minute minority, in contrast to the good citizens who willingly submit to infringements on civil liberties in wartime."

A chillingly similar comment came from Attorney General Ashcroft when he chided those who vigorously defend the Bill of Rights as "giving ammunition to America's enemies." Those charges have never intimidated this organization. We have continued to rise up to protest the abandonment of principle at this and other times of crisis. But today we face threats that are more complex, more sweeping, and perhaps more permanent than any that galvanized us in the past.

We began with the USA-PATRIOT Bill; the anti-terrorist legislation that passed so rapidly through Congress, giving government vast new powers to invade our privacy, imprison people without due process and punish dissent.

Astonishingly, this was not enough. Congress' action now pales in comparison with the executive branch's construction of what has been described as a "parallel criminal justice system." This is a system with military tribunals, where dragnet searches of young men are carried out based on national origin with no individualized suspicion. It is a system where people actually disappear. They are held secretly in custody for indefinite periods of time, and if they secure representation, their conversations with their attorneys may be taped without a warrant. It is a system where places of worship and political organizations are targeted for investigation.

Even with the ACLU's lobbying effort generating tens of thousands of faxes to Congress, with the organization issuing more than 50 position papers, providing daily online analyses, handling thousands of press calls and interviews; even with ACLU chapters holding forums throughout northern California and the establishment of a racial profiling hotline on September 12, our voices have often seemed muted against the din of support for policies that seem to resonate with the majority of Americans.

The challenge ahead is for us to convince more of an understandably frightened public that they have something to lose. From the McCarthy period to COINTELPRO, we need to revive the collective memory of the damage that can be done when power is abused in the name of national security. Those of you who know this from personal experience now need to share these experiences with a new generation.

We must also remember that in this crisis, like others before it, the least powerful are the most vulnerable; immigrants and people of color are once again targets and they, once again, have the most to lose.

At the same time, hard as it is to think beyond the immediate crisis, think beyond it we must. For the ACLU was committed to a range of clients and issues long before September 11.

Our opponents certainly find time for other issues. Attorney General Ashcroft, not content to fight terrorism, is also waging war on the sick and elderly. He is blocking Oregon's right-to-die policy and has shut down a medical marijuana club that was ministering to thousands of Californians. Campaigns to allow for prayer in the school and to ban flag desecration are also being revived with great fervor for the coming year.

This year, the ACLU-NC has completed one of the most successful legislative sessions in our history, sponsoring nearly a dozen proactive pieces of legislation. We conducted extensive media outreach around the legal challenge to Proposition 21, which was heard by the California Supreme Court in December. We have helped make racial profiling a household phrase, exporting our campaign to nearly every affiliate in the nation and succeeding in convincing the vast majority of Americans not only that racial profiling exists, but that it is wrong.

Our future plans continue to focus on racial justice - in the war on terrorism, in the criminal justice system and in the vast and unequal educational system in California. Other campaigns include seeking a moratorium on executions in California and an emerging statewide alliance to seek marriage and other rights and benefits for gay couples. Meanwhile, the Friedman Project will continue to fight against homophobia in high schools in rural California.

Our victories are due to the work of hundreds of chapter activists, the support of more than 25,000 members and the participation of thousands of online activists. Our work is made possible by the generosity of individual donors and foundations, by our dedicated staff of 35, by more than 60 volunteer attorneys, by a remarkable board of directors, and through our collaboration with the national ACLU, 51 ACLU affiliates, and coalition partners throughout the region.

I have never felt more privileged to work at the ACLU, to have the opportunity to devote each day of my life to this struggle to protect our rights -- and to know that what we do now will have a profound effect on the shape of civil liberties in the decades to come.

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Students and Teachers in the Forefront

This year's Bill of Rights Day marked the tenth anniversary of the Howard A. Friedman First Amendment Education Project and honored the teachers and students who have formed its activist core, as well as Phyllis Friedman, whose family's gift launched the innovative project in 1991.

Friedman Project "graduate" Raha Jorjani, a former member of the ACLU-NC Board of Directors, spoke of joining the student group as a 15-year-old sophomore at Albany High and learning how to "organize meetings, run conferences, work with other students for civil liberties and listen." Jorjani, a recent U.C. Berkeley graduate who spent last year on a human rights fellowship in South Africa, was greeted with cheers when she thanked Project Director Nancy Otto and the ACLU-NC "for the many ways that the Friedman Project changed my life."

Current Youth Advisory Council members Lindsay Waggerman of Vallejo High School and Aaron Leonard of Alhambra High School in Martinez introduced Phyllis Friedman and presented the Lola Hanzel Courageous Advocacy Award to Vallejo High School teachers Dan Anker and Bruce Wilson.

In 1992 Anker and Wilson made ACLU history by forming the first high school ACLU club in northern California - and the nation.

Their efforts dovetailed with the 1991 founding of the Friedman Project. Working with then project director Marcia Gallo, Anker and Wilson gently guided young activists who were interested in civil liberties and civil rights issues.

"Anker and Wilson are courageous, creative and generous teachers who have introduced a generation of students to the ideas of free thinking and free speech. Both in their classrooms and at club meetings, they support students by encouraging open, far-ranging and often controversial dialogue," said Otto.

Anker and Wilson continue to serve as the faculty advisors to the Vallejo High ACLU Club, which is still one of the most active in northern California. The students hold forums on controversial topics, which have included police accountability, metal detectors,

homophobia and racial disparity in student discipline. Club members have fought efforts to censor articles in the student newspaper, testified before the school board in opposition to metal detectors, and protested the lack of full-time credentialed teachers in the high school.

"Their guidance and support has produced an unparalleled crop of student leaders," said Otto.

As he thanked the ACLU for the award, Anker encouraged all teachers in the audience to start ACLU clubs. "Teachers - and all adults - have a responsibility to support students in their causes and their right to speak out," he said.

A lively exhibit in the lobby, composed of favorite photos, letters from parents, students and teachers as well as news articles about the history of the Project, was on display in the lobby. The exhibit was created by Friedman Project Youth Advocates Shayna Gelender and Lani Riccobuono.

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Two Victories for Free Speech

By Andy Lurie

Public Information Intern

Sometimes, a well-placed phone call or letter is all it takes to make a difference.

This October, thanks to the efforts of Legal Director Alan Schlosser and Staff Attorney Jayashri Srikantiah, the ACLU-NC helped overturn city permit denials that threatened to prevent two local groups from holding rallies.

Local organizers from the October 22nd Coalition - a national organization dedicated to protesting police brutality - had tried for more than a month to obtain a permit to hold a political demonstration in Oakland. They were met by misinformation and delay. Even after the Coalition agreed to the city's conditions regarding their route, officials denied their request on the grounds of potential "disruption." That's when the ACLU wrote the city, complaining about this use of vague and overbroad standards to prevent constitutionally protected activity. The permit was granted in time for the rally to be held as planned on October 22.

Meanwhile, the African People's Solidarity Committee (APSC) was seeking a permit to hold a human rights and peace rally in San Francisco's Dolores Park. After organizers learned that the police planned to deny their sound permit because of objections from local residents about excessive noise during previous demonstrations, they called the ACLU. Since APSC had complied with all the requirements of the sound permit ordinance intended to prevent excessive noise, the ACLU maintained in phone calls that these complaints did not provide a lawful basis for denying the permit. The permit issued, the rally went ahead on October 27.

"The APSC would like to give you our heartfelt thanks for the efforts you made on behalf of our committee's struggle to obtain a sound permit," wrote Wendy Snyder of APSC on October 29. "The event was a great success in presenting the voices of the African, Mexican, Asian, Palestinian and other communities' perspectives on the current war. We feel that the victory in obtaining the permit is one for all those who defend free speech."

"After the events of September 11 we can expect to see increased use of the streets for expressive and dissenting activities, and a diminished tolerance on the part of the government for accommodating such events, especially for unpopular voices," said Schlosser. "The role of the ACLU is to try to keep these grassroots means of expression open, particularly when the government is asserting emergency powers in the name of national security."

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U.S. Court Says "Non Merci!" to French Censorship Effort

**By Arnulfo Urias
Public Information Intern**

First Amendment freedoms extend to cyberspace and are beyond the reach of foreign governments, according to a landmark ruling issued November 8.

In a victory for the ACLU-NC, the ACLU national office and several human rights and free speech groups that filed amicus briefs in the case, U.S. District Court Judge Jeremy Fogel ruled that American courts would not enforce a French court's order seeking to prevent U.S.-based Internet portal Yahoo! Inc. from allowing French users to access web pages that contain speech related to Nazism.

"While France may have the power to regulate speech within its own borders, the court's decision makes clear that no country may reach out and silence speech in the United States," said Ann Brick, Staff Attorney with the ACLU-NC.

"Each nation has its own conception of what is legitimate speech," said Barry Steinhardt, Associate Director of the national ACLU. "Only the most bland and homogenized speech could possibly comply with those hundreds of different national laws."

The court clearly agreed. Under U.S. law, wrote Judge Fogel, "it is preferable to permit the non-violent expression of offensive viewpoints rather than impose viewpoint-based governmental regulation upon speech. The government and people of France have made a different judgement based upon their own experience."

The case, *Yahoo! v. La Ligue Contre Le Racisme et L'antisemitisme*, arose when two French groups sued Yahoo! under a French law that makes it illegal to engage in speech related to Nazism. Yahoo! argued that it was technically impossible to comply with the French order without violating the First Amendment rights of its U.S. customers.

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Victory at the Ballot Box

By Andy Lurie

One year after "hanging chad" became a household phrase, the ACLU has helped score a significant victory for voters' rights.

Common Cause v. Jones was one of four cases filed across the country challenging voting practices and standards in the wake of the November 2000 presidential election. The case, filed on April 17, 2001, challenges the use of antiquated and inaccurate pre-scored punch card voting machines in nine California counties, arguing that their use infringes on the voting rights of those counties' residents.

"The right to vote is the foundation of our democracy," said ACLU-NC Legal Director Alan Schlosser. "The state has a constitutional duty not to allow that foundation to crumble, as it has in nine counties here in California."

On August 24, 2001 the United States District Court in Los Angeles issued a ruling denying the government's motion to throw out the complaint. The court held that it would allow the case to proceed to trial because valid legal claims had been stated in the complaint - namely, that the use of the inaccurate punch card voting machines denied equal protection of the law to voters in those counties that used them, and that these machines could have a disparate racial impact in violation of the Voting Rights Act, because the nine punch card counties include a disproportionate number of African American, Asian American and Latino voters. In addition, the court held that the state was the responsible party to correct these constitutional problems if proven.

Secretary of State Bill Jones announced in September 2001 that he was revoking the certification of the use of the pre-scored punch machines. "We cannot wait for a Florida-style election debacle to occur in California before we replace archaic voting machines," said Jones. However, on December 17 Jones announced that the machines will not be decertified until July 2005. The ACLU, civil rights and citizens groups will continue with the litigation seeking a court order forcing the Secretary of State to make the changes before the 2004 presidential elections.

The ACLU affiliates of Northern California, Southern California and San Diego filed the lawsuit on behalf of Common Cause, the Southern Christian Leadership Council, the AFL-CIO, and the Southwestern Voter Registration and Education Project. The law firms Munger, Tolles & Olson and Altshuler, Berzon, Nussbaum, Rubin & Demain, and University of Michigan Law Professor Evan Caminker are co-counsel.

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Who's Who at the ACLU of Northern California

Michelle Alexander, Associate Director / Racial Justice Project Director

Frances Beal, Research Associate and Legal Assistant, Racial Justice Project

Ann Brick, Attorney

Cheri Bryant, Development Director

Maggie Crosby, Attorney

Mila De Guzman, Administrative Director and Office Manager

Dorothy Ehrlich, Executive Director

Elaine Elinson, Public Information Consultant

Marty Farris, Systems Administrator

Iain Finlay, Finance Director

Shayna Gelender, Friedman Youth Advocate

Sandy Holmes, Senior Development Associate

Robert Kim, Attorney

Katayoon Majd, Attorney, Racial Justice Project

Lisa Maldonado, Field Director

Denise Mock, Development Database Manager

Robert Nakatani, Endowment Campaign Director and Development Director,

National Lesbian and Gay Rights and AIDS Projects

Nancy Otto, Friedman Project Director

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Leticia Pavon, Receptionist, Administrative Assistant

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