

ACLU WINTER 2006 news

BECAUSE FREEDOM CAN'T PROTECT ITSELF

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BILL OF RIGHTS DAY ON EVE OF EXECUTION

By Yasmin Anwar

Less than 36 hours before Stanley Tookie Williams execution, the ACLU of Northern California presented some of the nation's most powerful and poignant voices against the death penalty at its 2005 Bill of Rights Day celebration.

More than 700 members and supporters of the ACLU of Northern California (ACLU-NC) gathered at the San Francisco Marriott on Dec. 11 to commemorate the enlightened constitutional amendments that drive the organization's mission to protect individual freedoms and civil rights, and to honor those who defend them.

It was one of the largest Bill of Rights Day turnouts in recent years. In between listening to eloquent speeches, provocative poetry and pleas to get involved in key campaigns, dozens of

audience members faxed letters to U.S. Sen. Dianne Feinstein asking her to oppose "cloture"—a Senate term for overriding a filibuster and thus ending debate—of the USA Patriot Act.

Others faxed and sent letters in support of a bill to put a hold on executions while the California Commission on the Fair Administration of Justice investigates problems with the state's criminal justice system, particularly in the face of mounting wrongful convictions.

Bill of Rights honorees included Sister Helen Prejean,



Sister Helen Prejean accepting the Chief Justice Earl Warren Civil Liberties Award from Sean Penn.

author of "Dead Man Walking," for her work against capital punishment; Monterey Chapter veteran Michelle "Mickey" Welsh for her outstanding service to the ACLU-NC; and the affiliate's Yolo County chapter for its creative outreach efforts.

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VICTORY ON PROP 73 SHOWS POWER OF GRASSROOTS ACTIVISM

By Yasmin Anwar

It was the afternoon of the Nov. 8 special election and Shayna Gelender, field coordinator for the ACLU of Northern California's campaign to defeat Prop 73, was exhausted. For weeks, she had been recruiting and training volunteers, running phone banks, organizing sandwich board demonstrations and helping chapters to get involved.

Volunteers trickled in to the Planned Parenthood office to make final desperate calls asking people to vote against the measure that would require doctors to notify parents 48 hours before terminating the pregnancy of an unwed minor. Their orders were to call opponents of the initiative three times until they confirmed that they had cast their "no" ballot. Gelender needed to keep all her helpers fed and in high spirits.

When the polling stations were all closed, Gelender closed shop and walked with a friend into darkness. Her job was over. Now it was up to the voters. They headed for a "Vote No on Prop 73" party

at a bar in Old Oakland, anxious about what lay ahead.

Periodically, someone at the gathering would check their laptop and yell out the latest precinct returns. The suspense was killing Gelender. "I wanted to know, and, of course, to win," she said. She went home, still not knowing the outcome, and after midnight fell into a heavy sleep.

Early the next morning, she jolted awake. She could hear the radio in the next room, and hollered at her partner to give her the news. When she heard Prop.73 had been defeated, Gelender shrieked with glee.

"It was like weathering a night of punishing and scary storms and then waking to a bright clean day and discovering no damage had been done to your home, everything was in tact," she said.

For Gelender and others heavily involved in the campaign, the Prop 73 defeat shows what can be done with finite resources, determined volunteers and a strong campaign message.

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TOTAL "NO" VOTES
3,465,629 (52.6 percent)

TOTAL "YES" VOTES
3,130,062 (47.4 percent)

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Sometimes, as part of our member recruitment program, we exchange or rent our list of members' names to like-minded organizations and publications.

The ACLU never makes its list available to partisan political groups or those whose programs are incompatible with the ACLU's mission. Whether by exchange or rental, the lists are governed by strict privacy procedures, as recommended by the U.S. Privacy Study Commission. Lists are never actually given into the physical possession of the organization that has rented them or exchanged for them. No organization ever possesses our list and no organization will ever see the names of the members on our list unless an individual responds to their mailing.

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City _____ State ____ Zip _____

ACLU SUPPORTER SEEKS CLOSURE IN HOLOCAUST INSURANCE CLAIM

By Stan Yogi

In April 2003, ACLU supporter Gilbert Bendix learned that an international insurance commission was making public the names of 363,232 Holocaust victims who were covered by German life insurance policies but whose records had been concealed for decades.

Bendix, who in 1936 immigrated to America from Nazi Germany, realized that relatives might have been insured and that he and other heirs could file claims for benefits. "I had put Germany behind me long ago," Bendix explains. "I didn't want to have anything to do with them. I didn't want their money, but I didn't want the thieves to get away with robbing the corpses of my relatives."

On the list of insured, he discovered names that matched three of his grandparents. He filed complicated claim forms requiring the drawing of family trees spanning four generations and researching the whereabouts of all surviving heirs. Since his grandparents' names were not distinctive, though, all Bendix's work could easily have been for naught.

More than 18 months passed before Bendix heard from a German life insurance company, not about his grand-

**"MR. BENDIX DEMONSTRATES HOW AN INDIVIDUAL CAN MAKE A DIFFERENCE BY TRANSFORMING UNSPEAKABLE SUFFERING INTO HOPE FOR THE FUTURE."
—DOROTHY EHRLICH, EXECUTIVE DIRECTOR, ACLU OF NORTHERN CALIFORNIA**

parents but about his father, who had taken out a policy in 1930. After Bendix proved his father's identity, the company claimed the policy was redeemed in 1935. However, under the international agreement compelling the release of the names of those insured, the company was required to pay the death benefit if there was any doubt at all whether the policy had been cashed in.

The following month, Bendix received word that none of the claims for his grandparents matched any policies. Still, the commission overseeing distribution of the insurance money gave Bendix a symbolic "humanitarian"

award from discretionary funds for his efforts.

In November 2005, another life insurance company informed Bendix that his father had taken out an earlier policy in 1927, thereby entitling Bendix and his sister to another payout.

As he completed paperwork for this final claim, Bendix recognized his subconscious motivation: "I was looking for closure, for the ability to look the past in the face," he said. "There are at least two new generations of Germans, and most of them have made a sincere effort to deal with the sins of the fathers. Accepting that money could settle more than a financial debt. Maybe I could have found closure if it weren't for Cambodia and Rwanda and Bosnia and now Darfur. No closure. Purgatory will not end in the foreseeable future. We're a flawed species."



Gilbert Bendix

After coming to this realization, Bendix decided to donate the insurance proceeds to a human rights organization. As he pondered which organization would receive the gift, he received materials from the ACLU explaining the gift annuity program, through which supporters make irrevocable contributions and receive income for life. Bendix decided to establish a gift annuity with appreciated securities that more than matched the amount of his insurance proceeds. In doing so, he avoided significant capital gains he would have realized had he sold the securities. "Since financial benefits will accrue to me by donating appreciated stock instead of the cash," Bendix said, "I could increase the amount donated above the German payments and still break even."

By establishing a gift annuity, Bendix also generated a matching grant through the ACLU's Legacy Challenge program, in which a generous ACLU supporter is matching a percentage of all new gift annuities and bequests to the ACLU.

"Mr. Bendix demonstrates how an individual can make a difference by transforming unspeakable suffering into hope for the future," said Dorothy Ehrlich, executive director of the ACLU of Northern California. "We deeply appreciate his thoughtful and meaningful support. The story behind his gift is profound." ■

BOARD ELECTION RESULTS

The ACLU of Northern California is proud to welcome new Board members Lovely Dhillon, Angel Garganta, Jahan Sagafi, and Elizabeth Zitrin who were elected in the 2006 Board Election by the membership of the ACLU-NC. Congratulations to incumbent Board members Jim Blume, Dick Grosboll, Hira Khan, Peter Kwan, Philip Mehas and Nancy Pemberton.

We thank outgoing Board members Luz Buitrago, Scott Burrell, Harmeet Dhillon, Milton Estes, and Paul Gilbert (Mid-Peninsula Chapter) and welcome new chapter representatives to the Board Dawn Abel (Mid-Peninsula Chapter), Alice Fialkin (San Francisco Chapter), and Peter Yessne (Santa Clara Valley Chapter.)

ELECTION OF OFFICERS & EXECUTIVE COMMITTEE MEMBERS

At their December 8, 2005 meeting, the ACLU-NC Board of Directors elected incumbent officers Quinn Delaney (Chair), Nancy Pemberton (Secretary/Treasurer), Bob Capistrano (Vice Chair), Susan Freiwald (Vice Chair), and Roberta Spieckerman (Vice Chair). In addition, Lisa Honig was newly elected as a Vice Chair.

Elected to the Executive Committee were: Donna Brorby (incumbent), Dick Grosboll, Michael Jackson, Peter Kwan, Philip Monrad, and Ronald Tyler.

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ACLU KEEPS TABS ON STATE LABOR LAWYERS' FREE SPEECH RIGHTS

By Yasmin Anwar

For years, state labor lawyers have attended various gatherings to impart their knowledge of the rules governing workers' comp, overtime, meal and rest breaks, minimum wage and other worker issues. But these briefings came under attack last year when the Division of Labor Standards Enforcement at the state Department of Industrial Relations sought to silence public employees tasked with enforcing workers' rights.

The gag order issued last year prohibited DLSE staff attorneys from participating in "any speaking appearances" related to laws and regulations enforced by the labor commissioner. In response, attorneys Rachel Folberg and Anne Hipshman asked the ACLU of Northern California (ACLU-NC) for help.

After the ACLU-NC sent the division a letter challenging the rule as a violation of employees' First Amendment right to speak on matters of public concern, the policy was swiftly rescinded.

"We are pleased that the DLSE backed away from its unconstitutional policy and we will stay in touch with attorneys there to make sure public employees retain their free speech rights," said ACLU-NC staff attorney Julia Harumi Mass, who had prepared to file a federal lawsuit against the policy.

It should be noted that the gag order did not come out of nowhere. At the time, the Schwarzenegger administration, along with the California Restaurant Association and other pro-business lobbying groups, were crafting "emergency" regulations that would end obligatory meal breaks.

Miles Locker, a senior DLSE staff attorney, believed that meal breaks were guaranteed under the law. And he made that clear at a brown bag luncheon on meal and rest break litigation

hosted by the San Francisco Bar Association's Barristers Club.

Locker had previously been given permission to speak as a representative of the DLSE at the luncheon in an official capacity. When he was told not to speak in an official capacity, he went forward in his personal capacity, believing it was his right to do so, according to his attorney, Steve Zieff.

However, when Locker returned to work from vacation, he was placed on an indefinite leave pending an investigation of his speaking engagement, and other unidentified issues in apparent retaliation for his exercising First Amendment rights and for his efforts in enforcing California labor laws intended to provide protections to workers, according to Zieff.

Moreover, newly installed chief counsel Robert Jones issued a memo prohibiting all staff attorneys from public speaking engagements on labor law.

The memo worried state labor lawyers Folberg and Hipshman, who were scheduled to speak at a California Employment Lawyers Association conference. When they offered to speak in their personal capacities and on their own time, Jones threatened to discipline them for insubordination.

That's when Folberg and Hipshman enlisted the help of the ACLU-NC.

"It was particularly ironic that the state agency responsible for enforcing employees' rights was ready to violate its own

"IT WAS PARTICULARLY IRONIC THAT THE STATE AGENCY RESPONSIBLE FOR ENFORCING EMPLOYEES' RIGHTS WAS READY TO VIOLATE ITS OWN EMPLOYEES' MOST PRECIOUS RIGHT—THE RIGHT TO FREE EXPRESSION."

—LABOR LAWYER ANNE HIPSHMAN

employees' most precious right—the right to free expression," said Hipshman, a labor lawyer with the labor standards division for 16 years.

The state withdrew its policy after receiving a letter from the ACLU-NC threatening litigation and demanding that the division rescind its policy. Folberg and Hipshman have since

spoken at a brown bag lunch on "Hot Topics in Wage-an-Hour Enforcement" for the Bay Area chapter of the National Lawyers' Guild. ■

LEGAL BRIEFS

LAW AGAINST FALSE POLICE COMPLAINTS OVERTURNED

In a free speech victory, a federal appeals court in November struck down a California law that makes it illegal for citizens to knowingly level false accusations against police officers.

The 9th U.S. Circuit Court of Appeals ruling in the case *Chaker v. Crogan*, found that a 1995 law, passed in response to police union claims that the notorious Rodney King beating would open the floodgates to officer-abuse complaints, is unconstitutional. The ACLU affiliates of Southern California, Northern California and San Diego filed an amicus brief and were asked by the court to participate in the oral argument.

"Speech that is critical of public officials enjoys the highest level of First Amendment protection," said ACLU-NC Legal Director Alan Schlosser. "Criminalizing citizen complaints against the police, and requiring that complaint forms include a boldface warning of the criminal penalties has had a chilling effect on the willingness of citizens to step forward and report police abuse."

The three-judge panel agreed. In his opinion, Judge Harry Pregerson wrote that Penal Code Section 148.6 discriminates on the basis of a speaker's viewpoint because "only those individuals critical of peace officers are subject to liability and not those who are supportive."

"The case reaffirms the principle that the First Amendment doesn't play favorites. The core purpose of the amendment is to afford citizens a voice as to

the performance of government," said ACLU/SC Legal Director Mark Rosenbaum, who argued the case before the court of appeals last year.

The case was launched by Darren David Chaker, a San Diego man who filed an abuse complaint against an El Cajon police officer who arrested him in 1996. Two years later, Chaker was convicted of a misdemeanor for knowingly filing a false accusation against the officer.

Chaker objected to being branded a criminal for making a complaint about how he was treated by El Cajon police. With the ACLU's help, he filed a series of unsuccessful appeals in state courts and then a habeas corpus petition in federal court in San Diego.

The 9th Circuit panel issued its ruling that the law is an unconstitutional infringement on speech on Nov. 3, 2005. The government has already filed a petition for rehearing by an en banc panel of 11 Ninth Circuit judges, and an eventual petition for U.S. Supreme Court review is likely.

49ERS SEASON-TICKET HOLDERS CHALLENGE PAT-DOWN POLICY

Two San Francisco 49ers season-ticket holders are challenging the pat-down policy at Monster Park implemented last year by the pro football team. The ACLU of Northern California is representing Dan Sheehan, a season-ticket holder for more than 35 years, and his wife Kathleen, who say their right to privacy under the California Constitution is being violated. The suit was filed in San Francisco Superior Court on Dec. 15, 2005.

"Going to the games is a real family event that we all look forward to. It is a tradition that I am proud of," said Dan Sheehan. "But this year, my family and I have been forced to submit to pat-downs by complete strangers that run their hands over my back, arms, waist and the outside of my legs. They have even patted down my 4-year-old grandson. I find this terribly offensive and ask, is this now the price we have to pay for admission to a football game?"

The pat-down policy was implemented this season in response to a directive from the NFL, citing post-9/11 security concerns. "These kinds of concerns, based on speculation and fear, lead to the erosion of our civil liberties and freedoms, and does not make us any safer," said Ann Brick, ACLU-NC staff attorney.

Last year, a Florida court ruled that pat-downs at Tampa Bay Buccaneers games are unconstitutional and the Florida court of appeal refused to stay the injunction.

"The citizens of California enacted Proposition 11, the Privacy Initiative, to ensure that every California citizen's right to privacy would be explicitly protected by our state's constitution," said ACLU-NC cooperating attorney Benjamin Riley, a lawyer at the firm of Chapman, Popik & White. "The 49ers pat-down policy violates the right to privacy by forcing fans to subject themselves to repeated "touching, patting and light rubbing" before they can enter Monster Park to watch the 49ers play. Courts have already prohibited the Tampa Bay Buccaneers from conducting these searches, and we are confident they will do so here as well." ■

STUDENT AND TEACHER ACTIVIST RETREAT GETS RAVE REVIEWS

By Danielle Silk

Matthew Green, a journalism and media studies teacher at Fremont High Media Academy in Oakland, noted a marked difference in his students' sense of leadership potential after they attended a Student and Teacher Activist Retreat last fall, sponsored by the ACLU of Northern California's Friedman Education Project.

"Since the retreat, I have seen a broadening in their overall perspectives on what they are capable of doing and how to strategically accomplish those tasks," Green said. "In terms of my own teaching, the retreat has given me a lot of curriculum ideas and lesson plans that deal with issues of social justice that are relevant to my students."

Indeed, those who have attended the Student and Teacher Activist Retreat (STAR) program commonly describe the experience as "positive," "energizing," and "hopeful." The annual retreat gives Northern California teachers and students the opportunity to come together outside the classroom setting to share and learn new strategies for campus activism.

The ACLU of Northern California's (ACLU-NC) retreat took place in the serene Sonoma setting of Westerbeke Ranch. Students and teachers from high schools in San Francisco and the East Bay came with various goals in mind. Some came to learn about student rights, some were looking to become better activists and some were looking for ways to strengthen the impact of on-campus clubs.

"It is a refreshing chance for students and teachers to break down the youth/adult barriers that the traditional school system creates," said Melissa Ambrose, a teacher at Oceana High School in Pacifica.

One of the highlights of the three-day retreat was a student rights workshop run by ACLU-NC staff attorney Julia Harumi Mass. It addressed a wide array of campus concerns such as dress codes, on-campus speech rights, discrimination, harassment, and the rights of LGBTQ (lesbian, gay, bisexual, transgender, queer/questioning) students.

To meet the needs of various participants at the retreat, Friedman Project staff ran workshops on how to share strategies for peer education projects, take action on campus, and improve club attendance. Participants also planned specific club events, such as culturally relevant movie nights, discus-

sions, guest speakers, and anti-slur campaigns.

Each school came with a different goal in mind. For example, students from Balboa High School in San Francisco wanted to learn about how to deal with a dress code policy that they believed unfairly targeted students of color. Students from Oceana High School in Pacifica were troubled by homophobic language and planned a creative campaign to challenge discrimination by designing T-shirts with anti-hate messages. Meanwhile, students at Fremont High School in Oakland were looking for ways to build school spirit by bringing back school dances that the administration had banned.

THE ANNUAL RETREAT GIVES TEACHERS AND STUDENTS THE OPPORTUNITY TO COME TOGETHER OUTSIDE THE CLASSROOM SETTING TO SHARE AND LEARN NEW STRATEGIES FOR CAMPUS ACTIVISM.

American community, the "n-word" and homophobia. She's been thinking of writing about violence in schools to challenge critics' assertions that this will never change.

Students who attend the retreat are encouraged to get involved with the Friedman Project's Youth Activist Committee. The next STAR Program is scheduled for Oct. 13-15, 2006 at Westerbeke Ranch. For more information, contact Friedman Project Director Eveline Chang at (415) 621-2493. ■

Danielle Silk is a Friedman Project Youth Advocate.



Students and teachers at the Westerbeke Ranch retreat discuss campus issues.

2005-2006 STAR PROGRAM PARTICIPANTS

- Balboa High School (San Francisco)
- Communication Arts & Sciences, Berkeley High School (Berkeley)
- Excel Academy, McClymonds High School (Oakland)
- Lincoln High School (San Francisco)
- Media Academy, Fremont High School (Oakland)
- Newark Memorial High School (Newark)
- Oceana High School (Pacifica)
- Washington High School (Fremont)

EXCERPTS FROM ANONYMOUS EVALUATIONS OF THE RETREAT

FROM TEACHERS:

"Energizing, good ideas & eye-opening for youth at our school, fun for me, I got to get many new ideas & examples. Awesome!!"

"I would certainly encourage teachers who have strong feelings about injustices at their schools but aren't sure how to fight them, well seasoned activists who need refreshing and students who have leadership/activism potential."

FROM STUDENTS:

"This impacted me a lot. I can speak up more, and I have more ideas."

"This was an amazing retreat and it gave me strength to continue my work."

"It has instilled in me a newfound drive to strive for what I believe in and to be the change I wish to see in the world."

"It really helped us realize the inequities in schools and what our rights are and what we can really do."

"Games were a blast, and really did build community! Everything was interesting and thought-provoking."

"It is worth everything because I never knew that everyone in different schools have so many problems, and knowing those problems makes me want to help everyone."

"I have learned how to exercise my rights as well as how to become a fellow advocate for my peers."

WILLIAMS SETTLEMENT TRIGGERS POSITIVE CHANGES FOR PUBLIC SCHOOLS

By Yasmin Anwar

Conditions in California's lowest-achieving public schools are improving, according to a new report chronicling the first year of implementation of the landmark *Williams v. California* settlement won by the ACLU's California affiliates.

The report, issued by the American Civil Liberties Union Foundation of Southern California, says hundreds of school facilities are being inspected and repaired; tens of thousands of textbooks and other learning materials have been purchased; and more teachers are being hired and properly certified, particularly those in classrooms with high numbers of English-language learners.

The class-action *Williams v. California* lawsuit was filed by the ACLU's California affiliates, Public Advocates and the Morrison & Foerster law firm in 2000 on behalf of San Francisco middle-school student Eliezer Williams. As the case gathered momentum, Williams became the lead plaintiff representing low-income students learning in substandard conditions compared to their middle-income, suburban counterparts.

Among other basic standards, the lawsuit demanded that all California public schools have well-trained teachers, sufficient textbooks and other learning materials, and that classrooms

and other campus facilities be kept clean and safe.

Under Gov. Gray Davis, the state spent \$18 million to fight the lawsuit. In August 2004, the Schwarzenegger administration agreed to settle the case and the governor signed into law five bills implementing the legislative proposals set forth in the settlement.

The goal of the implementing legislation was to establish "a floor, rather than a ceiling, and a beginning, not an end, to the state of California's commitment and effort to ensure that all California school pupils have access to the basic elements of a quality public education," the report says.

Aside from setting standards for school site and learning conditions for millions of low-income students of color, the agreement established new accountability mechanisms, and committed a billion dollars to meeting those goals.

One result of the 2004 Williams' settlement, lauded by teachers and parents, is the Uniform Complaint Process used to identify deficiencies and seek timely remedies. As for other advances in accountability, school districts are now required to conduct rigorous self-evaluations, the results of which are reported to the school community in a yearly report card. ■

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

By Vivek Malhotra

As the state Legislature gears up for a new year of lobbying and lawmaking, there is much planning going on. But first, a quick review of the November 2005 special election: The defeat of all eight initiatives—including the four heavily championed by Gov. Arnold Schwarzenegger—shook up the Capitol.

Immediately after the election, the Republican governor called for reconciliation with legislative leaders and signaled a shift in policy priorities from polarizing governmental reforms to less controversial proposals such as infrastructural improvement, affordable housing and energy development.

It is too early to predict how well the conciliatory overtures will go over with Democrats who control both houses of the Legislature this election year. As advocates and lawmakers alike are crafting their legislative strategies, the ACLU is in the midst of honing its priorities for the year ahead.

REFLECTING ON 2005

The ACLU's legislative priorities in 2005 faced considerable challenges, with mixed results overall. The euphoria accompanying the historic passage of the marriage equality bill (AB 849) was soon tempered by the reality of the governor's veto. This enduring civil rights battle to establish the rights of same-sex couples to marry in California

THE POLITICALLY EXPEDIENT DEMAGOGUERY IS SURE TO RESUME ITS ANTI-IMMIGRANT CAMPAIGN THIS YEAR, ESPECIALLY AS EFFORTS TO SCAPEGOAT UNDOCUMENTED IMMIGRANTS HEAT UP AT THE FEDERAL LEVEL.

will no doubt continue in Sacramento and at the ballot box statewide. A major push by the ACLU to promote media access and prison accountability by restoring the right to conduct media interviews with individual inmates in state prisons (SB 239) met a similar fate when Schwarzenegger vetoed the bill after it passed with bipartisan support in the legislature.

However, there were some notable victories. The governor signed a bill clarifying that marital status and sexual orientation are protected categories under the state's Unruh Civil Rights Act (AB 1400), prohibiting business establishments in the state from discriminating against same-sex couples in such areas as housing and public accommodations. The governor also signaled his support for reproductive rights by approving a bill to ensure women's access to certain medical prescriptions, such as the morning-after pill, when individual pharmacists object on ethical, moral, or religious grounds (SB 644), and a measure to reject the federal government's attempt to define a "fetus" as a "child" as a condition of accepting federal money allocated for women's prenatal health services (AB 794).

Other major legislative priorities in 2005 were put on hold until this year. They include an effort to curb the use of radio frequency identity tags (RFID's) in commonly used government-issued identity documents, including drivers' licenses, until appropriate safeguards are in place to prevent the unauthorized remote detection of personal information and to protect individual privacy (SB 768), and a bill to allow "death with dignity" in California by ensuring the rights of mentally capable, terminally ill adults, with six months or less to live, to legally obtain and use prescriptions if they choose to die on their own terms (AB 651). Also returning next year is a bill to reduce the likelihood of false confessions by requiring electronic recordings of the interrogations of those in police custody who are accused of homicides or other violent crimes (SB 171).

Eerily reminiscent of the racially polarizing debates surrounding Proposition 187 a decade ago, a number of civil liberties opponents in the Legislature introduced bills and proposed constitutional amendments targeting California's undocumented immigrants in 2005. Efforts included pro-

posals to create a new state immigration police force (ACA 20), roll back access to higher education for immigrant children (SB 349, AB 589), and deny a range of public services, including emergency health care, to undocumented immigrants (ACA 6). The ACLU joined immigrant rights groups in successfully beating these measures down. However, the politically expedient demagoguery is sure to resume its anti-immigrant campaign this year, especially as efforts to scapegoat undocumented immigrants heat up at the federal level.

LOOKING AHEAD

With Gov. Schwarzenegger and most state legislators up for re-election, 2006 is sure to be politically charged. Conventional wisdom suggests that moderate politicians running in swing districts tend to shy away from issues deemed unpopular or controversial. This dynamic forebodes another tough year for the ACLU as we lead efforts to reform the criminal justice system, promote individual privacy, protect immigrant rights, and combat discrimination. In addition to the holdover bills from 2005 described above, here is a preview of some of the ACLU's likely legislative priorities for the coming year.

MORATORIUM OF THE DEATH PENALTY

The ACLU has been vigorously promoting a bill calling for a two-year suspension of executions in California while the California Commission on the Fair Administration of Justice investigates the causes of wrongful convictions. Since the U.S. Supreme Court reinstated the death penalty in 1976, 121 men and women have been freed from death rows across the nation after being found innocent, including six here in California.

THE ACLU OF NORTHERN CALIFORNIA HAS BEEN VIGOROUSLY PROMOTING A BILL CALLING FOR A TWO-YEAR SUSPENSION OF EXECUTIONS WHILE THE CALIFORNIA COMMISSION ON THE FAIR ADMINISTRATION OF JUSTICE INVESTIGATES THE CAUSES OF WRONGFUL CONVICTIONS.

Assembly Bill 1121, authored by Assembly Member Sally J. Lieber (D-Mountain View) and Assembly Member Paul Koretz (D-West Hollywood), was shelved in the Assembly Appropriations Committee last month. However, its sponsors are hoping to reintroduce it before the session's end. The Legislature established the California Commission on the Fair Administration of Justice in 2004 to investigate flaws in California's criminal justice system and recommend specific reforms to ensure that the system is just, fair, and accurate. The commission has until December 2007 to make its recommendations.

IMPLEMENTATION OF THE FEDERAL REAL ID ACT

In May 2005, Congress enacted the Real ID Act, without the benefit of public hearings. Implementation of this new law threatens to have far-reaching consequences for individual privacy in California and huge fiscal impacts on the states. The ACLU is leading efforts to persuade state legislatures and leaders to challenge implementation of the federal law, including here in California.

The Real ID authorizes the creation of one of the most comprehensive personal databases in American history, one that lists and contains detailed information on virtually every person over age 16. It also cre-

ates our first national identity card and enables the routine tracking of individuals by both government and businesses. Among other privacy violations, Real ID stands to seriously increase incidents of identity theft.

CRIMINAL JUSTICE REFORM: EYEWITNESS IDENTIFICATION

As part of our ongoing effort to promote reforms that prevent wrongful conviction in criminal cases, the ACLU is developing legislation to reduce false eyewitness identification in California. Studies show that in the vast majority of convictions that were overturned through DNA evidence, false or mistaken eyewitness, identification played a major role in establishing convictions. The standard procedures used in many police line-ups have the potential to contaminate witness recall. In cities and states, such as New Jersey and Minneapolis, that have implemented reforms to reduce bias in criminal cases, the credibility of eyewitness identification has improved, thereby strengthening prosecutions and reducing the likelihood of convicting innocent people.

PROTECTING DOMESTIC VIOLENCE VICTIMS FROM HOUSING DISCRIMINATION

This year, the ACLU is keen to sponsor legislation that will strengthen California law to protect domestic violence victims from housing discrimination. Domestic violence is the leading cause of homelessness nationally. In fact, 38

ACCORDING TO THE U.S. DEPARTMENT OF JUSTICE, WOMEN LIVING IN RENTAL HOUSING SUFFER VIOLENCE FROM AN INTIMATE PARTNER AT THREE TIMES THE RATE OF WOMEN WHO OWN THEIR HOMES.

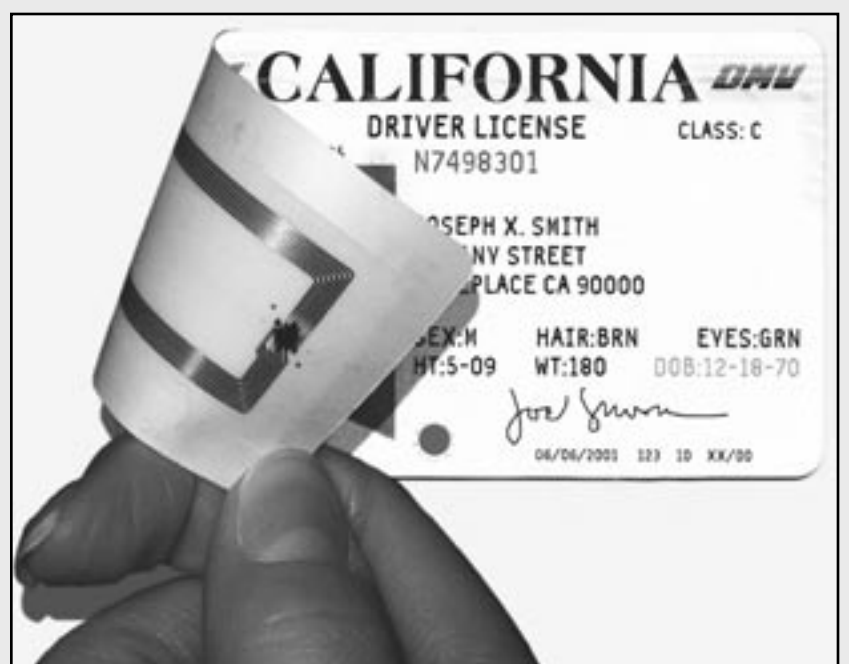
percent of all battered women become homeless at some point in their lives. Among cities surveyed in 2004, 44 percent identified domestic violence as a primary cause of local homelessness.

Some victims and their children lose their homes when they flee abuse. Other domestic violence survivors

become homeless after being evicted, or after being denied housing as a result of the violence against them.

According to the U.S. Department of Justice, women living in rental housing suffer violence from an intimate partner at three times the rate of women who own their homes. If a woman knows that she may be evicted if her landlord learns about the violence in her relationship, she is more likely to keep the abuse a secret and less likely to seek help from police or courts. Legislation to protect domestic abuse victims, including the children, from homelessness is sorely needed. ■

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



DEATH PENALTY ON TRIAL

As San Quentin's death chamber prepares for its third execution in three months, the ACLU of Northern California is stepping up its campaign against capital punishment. In April, the affiliate will co-sponsor a conference at the UCLA Law School called "The Faces of Wrongful Conviction." Following are reports on efforts to bear witness to state-sanctioned killing and highlight problems with the death penalty.

MIKE FARRELL: BEARING WITNESS, BEARING CHANGE

By Erika Clark

Mike Farrell soared in the hit TV shows *M.A.S.H.* and *Providence*, but to many, he has ascended to even greater heights through his steel commitment to humanitarianism. Upon meeting Farrell, president of Death Penalty Focus, I discovered a man with a frame taller than most, eyes a brighter watery blue than most, and a spirit more apt to embrace than most. His honed ability to empathize makes him vulnerable, yet unrelenting in his advocacy to reform our justice system.

CLARK: *You've been advocating against the death penalty for almost 30 years. What in your background has better enabled you to clearly see injustices in the administration of the death penalty?*

FARRELL: An experience I had when I was in my mid-20s, I guess. I was part of a halfway house program for those recently released from prison. And part of that is what moved me in the direction of being opposed to the death penalty. Being involved in the lives of those formerly incarcerated and seeing many of them succeed sensitized me to a lack of fairness that is threaded throughout our prison system. So when I meet someone on death row who is incredibly bright, who has had as ugly a history as a human being could ever have, and then I witness the potential for them to develop into a thinking, caring human being, it magnetizes me. I just think, "This can't happen. You just can't kill this human being."

CLARK: *But the system remains impersonal.*

FARRELL: In the system there is what I call an institutional imperative against the admission of error. States, counties, jurisdictions, district attorneys offices—they never want to admit that they've made a mistake. And you see it. We've got 118 people now freed from death row and the prosecutors continue to insist that's the guilty guy.

CLARK: *Having navigated many political waters yourself, what do you think are the best strategies that can move politicians to take a stand against the death penalty?*

FARRELL: Our so-called political leaders are not leaders, they're followers. We really have to educate the people. We have to move the people.

**"LITTLE BY LITTLE, YOU DEMONSTRATE THAT INNOCENT PEOPLE ARE TRAPPED IN THE SYSTEM AND THAT IT'S MORE EXPENSIVE TO KILL THAN IT IS TO PUT THEM IN PRISON FOR THE REST OF THEIR LIVES."
—MIKE FARRELL**

through this process and 'escort them, to their deaths.' So that's a point I try and make. Little by little, you demonstrate

that innocent people are trapped in the system and that it's more expensive to kill than it is to put them in prison for the rest of their lives.

CLARK: *I think on some sort of fundamental level people are beginning to get it. How do you approach the issue with victims' families?*

FARRELL: It's a very hard thing. What I try to do is say this is not about my morality being higher than your morality, but what we as a society have to do is figure out what works for us. How do we establish a set of laws and a set of policies and practices that help us become the society we endeavor to be. This is not about you being wrong and me being right. This is about how do we come together and say, "Let's create a system that serves us all."

CLARK: *So what do you think we can do to support a moratorium on executions?*

FARRELL: The people of California supported the creation of the Commission for the Fair Administration of Justice with a specific mandate to review the death system. So that gives us a big leg up. The appropriate thing for the legislators and Gov. Schwarzenegger to do, given the fact that this commission is in operation, is to declare a moratorium, to simply stay executions until we know whether or not the system is working.

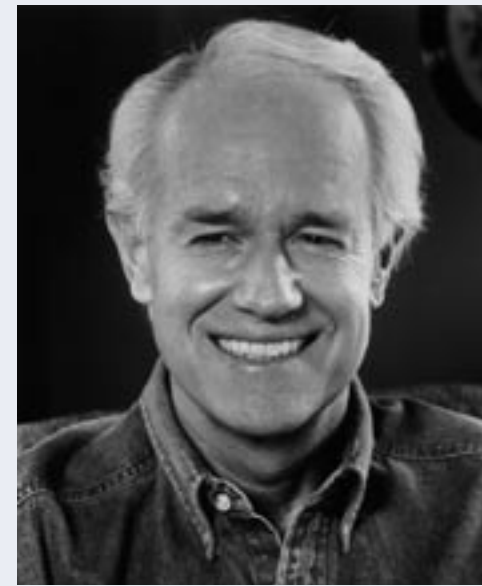
CLARK: *Well, I certainly think momentum is gaining for a moratorium when you consider the public debate on the execution of Stanley Tookie Williams. What did you think of the governor's decision to deny clemency?*

FARRELL: With the majority of the world's nations abandoning state killing, Gov. Schwarzenegger instead washed his hands, Pilate-like, and ordered the extermination of a man who had become a force for good in our society and an example of hope for misdirected youth. He chose rank politics over justice, poisoning the hopes of our youth with the very needle that took Stan's life.

CLARK: *Williams is certainly a compelling example, but I continue to be struck with your ability to identify with the underdog.*

FARRELL: We're all a product of our environment as well as our genes, but I think the truth is that I was a terrified child and my father was not a brutal man but terrifying. So I always identified with the underdog, always have and always will, I guess. And I'm a great believer in justice. I think that justice must be done, and to the degree that I have the capacity to contribute to that, I will.

CLARK: *Not only have you been vigorously involved in death penalty issues, but you have also been involved in human rights issues spanning much of the globe. You are co-chair of Human Rights Watch in California and, after a trip to Bosnia and Somalia, you were named Good Will Ambassador for the United Nations High Commissioner for Refugees. What do you think is next for the human rights movement?*



Mike Farrell

FARRELL: I think the human rights movement is now expanding its reach. It was a big deal for Human Rights Watch and Amnesty International to come out against the death penalty, for the ACLU as well. They lost a lot of membership because of it. Now many human rights organizations are getting into the area of gay rights. It's about recognizing humanity and with humanity comes certain inalienable rights as the Constitution says. So I think the human rights movement is at once being broadened to include more nations and more cultures and at the same time is being challenged to filter down into cultural areas that have been ignored over time because they were considered "dangerous."

CLARK: *Well, you certainly do what many are afraid to do—by being a witness to death. When you think about your own life, how do you want to be remembered?*

FARRELL: There's an image that stays with me. When I was in Rwanda we were at church where an incredible slaughter took

**"THIS IS NOT ABOUT YOU BEING WRONG AND ME BEING RIGHT. THIS IS ABOUT HOW DO WE COME TOGETHER AND SAY, LET'S CREATE A SYSTEM THAT SERVES US ALL."
—MIKE FARRELL**

place. Inside the chapel was almost beyond description. Outside the church there were piles of bones and there were some skeletons of those who had been killed still wrapped in clothing. And we came to understand there was an area where the children had been secreted away in the hope that they would not be killed and of course, they were. One of the figures on the ground was the skeleton of a man still in his clothing. You could tell that it was the skeleton of a man who had been killed in the midst of running. And for myself, because of the posture of the figure, the direction he was going, I believe he was rushing toward the children. There is no better way to either die or to be remembered than having spent your last ounce of energy to help somebody.

CLARK: *Thank you.* ■

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

BRAVE AND WEARY KEEP VIGIL FOR STANLEY TOOKIE WILLIAMS

By Natasha Minsker

When Bryan Stevenson told Rosa Parks that he represented death row inmates in Alabama, she shook her head and said, “Son, that work will make you tired, tired, tired.” Stevenson nodded in agreement and said, “Yes, I am tired, very tired” to which Parks placed her hand on his knee and said, “Son, you must be brave, brave, brave.”

And brave is what I tried to be at 12:01 a.m. on Dec. 13, 2005 as I kept vigil for Stanley Tookie Williams outside San Quentin Prison along with 2,000 others. For months, I had been working with death penalty opponents and Williams’ defense team to spread awareness of his plight and of proposed legislation to put executions on hold while an independent commission studies flaws in the criminal justice system.

Less than ten hours earlier, we had learned that Gov. Arnold Schwarzenegger refused to grant Williams’ clemency. And so we had come to the gates of San Quentin Prison to bear witness to the state of California killing a man that many in the crowd had come to know, if not personally then through his redemptive work to keep young people out of gangs.

I never met Williams, founder of the Crips street gang. But I can still hear his voice in my head from listening to his lectures and reading his books. Indeed, in the days leading up to his execution, Williams was no longer viewed by the world as an anonymous prisoner identifiable only by his mug shot. He was a human being that many felt a connection with, a man who was about to be killed in a cold, calculated and clinical manner.

Those who had worked hard to save Williams’ life were

filled with emotion that night. When Joan Baez took the stage early in the evening to sing “Swing Low Sweet Chariot,” her eyes brimmed with tears.

At midnight, the crowd grew quiet and tense. Rabbi Alan Lew of San Francisco’s Congregation Beth Shalom, who has kept vigil at nine executions, told us that the next half hour would be difficult. Children of all ages read from Williams’ books, filling the air with his words even as the state prepared to silence him forever. A minister from the Nation of Islam took the stage and prayed for a moratorium on executions.

It was in some sense a moment of transcendence. People from all walks of life had come together for one purpose: to say that it is simply wrong for the state to kill a man, this man.

But the unified purpose was also eclipsed by suffering. Those who had never gone to an execution suffered from not knowing: “Tell us what’s going on!” they yelled, not understanding that once the macabre ritual begins, those involved do not communicate with those outside the gates until the death is confirmed. Others, including myself, suffered from knowing too much.

Just before midnight, I saw in my mind’s eye Stanley Tookie Williams in shackles, walking the last 15 feet he would ever

PEOPLE FROM ALL WALKS OF LIFE HAD COME TOGETHER FOR ONE PURPOSE: TO SAY THAT IT IS SIMPLY WRONG FOR THE STATE TO KILL A MAN.



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People gathered at the midnight vigil for Stanley Tookie Williams.

walk. At 12:05 a.m., I pictured him standing inside the death chamber, knowing he would never leave that room alive.

By 12:15 a.m. I saw him strapped to the gurney, needles piercing his skin as the guard fumbled with the IV, the last physical contact with another person that he would ever have.

By 12:35 a.m., we had not heard any news and so we gathered on the makeshift stage outside the San Quentin gates and sang “We Shall Overcome.” We did so not because we believed we could save Williams’ life, but because we needed to draw inspiration from the civil rights movement. We needed to resurrect the spirit of Rosa Parks and many other brave souls so that we could be brave when the word came down that Tookie was dead. ■

Natasha Minsker is Death Penalty Policy Director for the ACLU of Northern California

HUNDREDS GATHER FOR BILL OF RIGHTS DAY CONTINUED FROM PAGE 1

Fresh from advocating—successfully, as it turned out—for a moratorium on executions in New Jersey, Sister Helen told reporters at a press conference that the message Gov. Arnold Schwarzenegger sent out by refusing to grant clemency to Williams is: “Don’t tell us you changed your life. Don’t tell us you are helping the children. We have to kill you.”

Still, Sister Helen said she has faith that the American people are not vengeful and will reject the death penalty when

they learn that it is “better to heal and transform than to imitate violence blindly.”

Other speakers also appealed for Williams’ life: “Williams is a living example of rehabilitation, the power of renouncing violence in a violent world,” said Assemblyman Mark Leno, co-sponsor of the moratorium bill.

In her state-of-the-union speech, ACLU-NC Executive Director

Dorothy Ehrlich vehemently echoed the sentiments that executions should be put on hold.

“No one should be put to death ... while a commission studies wrongful convictions and flaws in the death penalty system,” she said. “No one should be put to death when more than 122 people have been released from death rows because they did not commit the crimes for which they were convicted.”

Sadly, the 51-year-old Crips gang founder, whose redemptive efforts to steer kids away from gangs earned him several

Nobel Peace Prize nominations, was pronounced dead from lethal injection at San Quentin Prison at 12:35 a.m. on Dec. 13. The execution of Clarence Ray Allen, the oldest and frailest inmate on California’s death row, followed on Jan. 17.

Along with the death penalty, Ehrlich discussed a broad range of issues, including the Patriot Act, the impact of Hurricane Katrina on poor minorities and the ACLU’s victory in defeating the Prop 73 parental notification initiative.

“With a winning coalition and a smart political campaign, we were able to defeat that initiative and defend teenagers’ right to privacy and safety,” Ehrlich said.

As well as paying tribute to ACLU old-timers, the 2005 Bill of Rights Day program featured a budding generation of civil rights activists, including students from the Howard A. Friedman First Amendment Project. They showed a slide show of their summer field trip investigation of California’s juvenile justice system. Also representing young voices for justice with their powerful slam poetry were members of Youth Speaks, a San Francisco-founded spoken word and creative writing program.

MORE THAN 700 MEMBERS AND SUPPORTERS OF THE ACLU OF NORTHERN CALIFORNIA GATHERED AT THE SAN FRANCISCO MARRIOTT ON DEC. 11.

Actor Sean Penn, who got to know Sister Helen while working on the 1995 film based on her book, “Dead Man Walking,” presented the Baton-Rouge-born Catholic nun with the ACLU-NC’s Chief Justice Earl Warren Civil Liberties award.

“She is a true dove to ride the back of,” Penn said, echoing the words of a Youth Speaks slam poet who had performed earlier. He noted that the death penalty “is more a reflection of how we fear death than how we deal with retribution.”



MICHAEL WOOLSEY

Sister Helen Prejean speaking after being awarded the Chief Justice Earl Warren Civil Liberties Award.

After accepting the award from Penn, Sister Helen launched into a speech about her life and awakening through administering to the poor in New Orleans’ St. Thomas housing project and befriending death row inmate Patrick Sonnier, who was executed on April 5, 1984.

“There in my heart that night, there was a very clear summons,” she said. “The American people will never see this, so I have to tell this story. Then I began to write.”

Honoree Micky Welsh received the Lola Hanzel Courageous Advocacy Award for her more than two decades of dedicated service to the ACLU. She recalled how she and her longtime partner, Kathy Stone, were first drawn to the ACLU in 1978 and how it helped shape them.

“When Kathy and I graduated from law school, we wanted to save the world, but we didn’t know how,” she said. “The ACLU has given us skills, but even more, the ACLU has given us hope.” ■



MICHAEL WOOLSEY

Natalie Wormeli accepts the Dick Criley Activist Award for the Yolo County ACLU Chapter.

CONFERENCE TO SPOTLIGHT TRAGEDIES OF WRONGFUL CONVICTION

By Stella Richardson

WHAT: Conference on “The Faces of Wrongful Conviction.”
WHEN: April 7-9, 2006
WHERE: UCLA Law School

For the first time ever, California men and women who were exonerated after being convicted of crimes they did not commit will gather this spring at UCLA Law School, along with leading experts on criminal justice, civil rights advocates and elected officials.

The dual goal of the “Faces of Wrongful Conviction” conference is to illustrate both the tragedies of wrongful conviction and the unfair application of the death penalty. In California since 1990, more than 200 people have been freed from prisons after being found innocent of the crimes for which they were convicted. Some served more than 20 years in prison until new evidence proved their innocence.

“This conference is especially timely as the California Commission on the Fair Administration of Justice examines the causes of wrongful convictions and examines the administration of the death penalty,” said Natasha Minsker, ACLU-NC Death Penalty Policy Director. “At the same time, the California Legislature will be voting on a moratorium bill, AB 1121, which would temporarily suspend executions in California until the Legislature

considers the findings of the Justice Commission.” The Justice Commission will submit its findings to the Legislature and the governor no later than December 31, 2007.

Leading experts speaking at the conference will include Barry Scheck and Peter Neufeld, co-directors of New York’s Innocence Project at the Benjamin N. Cardozo School Law; Lawrence Marshall, Stanford University law professor and founder of the Center on Wrongful Conviction at Northwestern Law School, and Bryan Stevenson, executive director of the Equal Justice Initiative of Alabama.

Conference planners hope to tell the stories of the exonerates, provide new research illustrating the problems with California’s criminal justice and death penalty systems, and propose concrete solutions. Death Penalty Focus, the California ACLU affiliates, Northern California Innocence Project and Amnesty International USA are among the organizations sponsoring the conference.

Pre-registration has begun. For more information, visit www.stopwrongfulconvictions.org

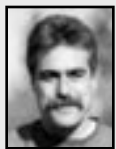
FACTS ABOUT WRONGFUL CONVICTIONS

- California’s penal system is the third largest in the world and has put more innocent people behind bars than any other state
- At least 200 Californians have been freed – almost twice the number of innocent people as in Illinois and Texas combined
- Of 163,500 inmates in California prisons, an estimated 8,000 are believed to be innocent
- 60 percent of wrongful convictions involved at least one mistaken eyewitness
- 63 percent included police error or misconduct
- 20 percent included a snitch who committed perjury
- 50 percent included prosecutorial error or misconduct
- Innocent men and women spend an average of 13 years in prison for crimes they never committed

(From *San Francisco Magazine*, November 2004)

EXONEREE PROFILES

By Stella Richardson



PETER J. ROSE: NEARLY TEN YEARS OF HARD TIME FOR A RAPE HE DIDN'T COMMIT

On the morning of Nov. 29, 1994, in Lodi, California, a 13-year old girl on her way to school was grabbed and dragged behind a house by a man who punched her in the face, assaulted and raped her.

The victim told police that her attacker was a stranger and that she did not get a good enough look to identify him. However, the victim’s aunt told police that a composite sketch of the attacker published in the local newspaper resembled 27 year-old Peter Rose, a neighbor and father of four small children.

Her assertion led police to include Rose’s picture in a photographic lineup shown to the young girl the day after the rape. Though she could not identify her attacker from the photographs, her aunt continued to point to Rose as the possible rapist. Three weeks after the rape, following a grueling three-hour interrogation, the girl tentatively named Rose.

Rose was arrested four days before Christmas in 1994. In his narrative for the book “Surviving Justice,” Rose wrote: “I remember the day that I was arrested really well, like it was yesterday. I had my son on my shoulders. We were going to the store to get some chips and soda. And the next thing you know I have police officers rolling up behind me in a police car, telling me to freeze.”

At the trial, the young girl identified Rose as her attacker with certainty. A state criminologist testified that Rose was within 30 percent of the population who could have produced the semen found on the victim’s underwear. The prosecutor relied on this evidence in his closing argument to corroborate the eyewitness testimony. On April 5, 1996, Rose was convicted and a judge sentenced him to 27 years in Mule Creek State Prison in Ione, California.

As a convicted sex offender, Rose was attacked several times by fellow inmates. In a letter to his mother, who

was taking care of his children, he wrote, “I’m not going to make it in here. Just pretend I’m dead and just go on with your life, because I’m not going to make it; they’re going to kill me in here.”

During Rose’s first few years of imprisonment, his mother brought his children to visit him. But in the mid-1990’s, California passed a law that prevented convicted sex offenders from visiting with their own children.

Things started looking up in 2003 when the Northern California Innocence Project at San Francisco’s Golden Gate University began to look into Rose’s case. Initially, county officials maintained that all the evidence had been destroyed. However, in a remarkable breakthrough, students found one critical piece of evidence in a Berkeley laboratory: a cutting from the victim’s underwear. DNA testing proved that Rose was not the rapist, and resulted in his release from prison in 2004. When he walked out of the Mule Creek prison gates, his children ran into his arms.

A year later, Rose was declared factually innocent after serving nearly ten years of hard time for a crime he never committed. The Lodi police investigated themselves and found no wrongdoing. The real perpetrator has not been identified.

What kept him going? The letters from his kids saying, “I love you.” He is now reunited with his four children,



Anti-death penalty activist Sister Helen Prejean (center) with two exonerees—Greg Wilhoit (left) and Shujaa Graham—at Bill of Rights Day.

who are now young teens, and lives in Point Arena where he is a fisherman. The rape victim, who is now 24, called The Record newspaper in Stockton after reading about his release, and said Lodi police made her say Rose did it.



HERMAN ATKINS: IDENTIFIED FROM A ‘WANTED’ POSTER FOR A SHOE STORE RAPE

On April 8, 1986, a man entered a shoe store in Lake Elsinore, California, and raped and robbed a female employee at gunpoint. As part of the investigation, police took a sample of the semen that the rapist had wiped on the victim’s sweater and medical personnel collected vaginal swabs. At the police station, police showed the victim high school yearbook photos, but she didn’t see her attacker in them. She did however identify Atkins from a “Wanted” poster on unrelated charges that hung in the police station, and identified him again in a police lineup. Someone working in the store next to the shoe store also identified Atkins as the assailant after seeing the “Wanted” poster.

At his trial, Atkins presented alibi witnesses and testified on his own behalf. The prosecution presented two eyewitnesses as well as a state criminologist who concluded from the semen deposit found on the victim’s sweater that Atkins was among 4.4 percent of the population that could have committed the rape. The jury convicted Atkins, and he was sentenced to more than 45 years in prison.

The Innocence Project at Cardozo School of Law in New York took his case in 1993, but the district attorney refused to grant access to the biological evidence for DNA testing. It wasn’t until 1999 that they finally secured an order for DNA testing. Though the vaginal swabs had been destroyed during testing conducted at the time of trial, sperm collected from three different parts of the sweater excluded Atkins as the perpetrator. Atkins was released from prison in February 2000 after serving more than 11 years in prison. The real rapist has not been identified. ■

NO ON PROP 73: A CAMPAIGN TO REMEMBER CONTINUED FROM PAGE 1

Margaret Crosby, staff attorney with the ACLU of Northern California (ACLU-NC) has been instrumental in keeping parental consent laws off the books in California. In challenging Prop 73, she spoke persuasively in public forums on the initiative's threat to teen health and safety, as well as reproductive rights. The measure described a fetus as a "child conceived but not yet born."

Crosby has seen abortion foes returning time and again with new and insidious ways to restrict access to safe and legal abortions, and anticipates yet another challenge in the not-too-distant future.

"As we enter 2006, reproductive freedom in America is on the precipice," Crosby said. "With an administration hostile to abortion and birth control, a Congress poised to enact cruelly restrictive laws, and a changing Supreme Court, creative advocacy will be critical to securing meaningful reproductive choice, especially for vulnerable young and poor women."

Still, future challenges don't detract from the success of defeating Prop. 73. The effort demonstrated to Gelender and campaign coordinator Becca Cramer the power of grassroots activism over big-money politics. Prop. 73 was bankrolled by San Diego newspaper publisher James Holman, winemaker Don Sebastiani and Domino's Pizza founder Tom Monaghan, all staunch opponents of abortion.

Cramer remembers the rainy night before the election when volunteers at a dozen different locations wore sandwich boards urging a "no" vote on Prop. 73. Nobody complained about getting drenched. "The volunteers loved it," Cramer recalls.



Volunteers throughout northern California helped defeat Prop 73.

"They wanted to do it again."

Another fond campaign memory for Cramer was running the first Marin County phone bank. The volunteers were all dedicated activists, particularly one named Libby, who had never worked a phone bank in her life.

After making the first call, Libby shrieked with joy. It turned out that the person on the other end had been none other than Bonnie Anderson, the ACLU-NC finance and administrative director, who not only agreed wholeheartedly with Libby's pitch, but allowed her to run through the entire script. "All the dread that usually accompanies phone banking was gone and she eagerly plugged away at her list," Cramer said.

Another of Cramer's favorite campaign memories is the mock Prop 73 Judicial Bypass event at the UC Berkeley campus. The setup was intended to demonstrate what teens have to

go through to get a judge to waive the requirement to notify their parents. The scheduled event was rained out, so it ended up being held at Halloween, which made for a great turnout at Sproul Plaza.

Students moving through the mock maze were able to see how it feels to be pregnant teen trying to get court permission to bypass parental notification. Many were guys who had been indifferent to Prop 73 until they entered the maze. One of them, Cramer recalls, was on his way back to work from lunch. After trying the maze, he talked to Cramer about how difficult and scary the judicial bypass process had been for him, even though it was make-believe.

"I think that was the moment when I realized that what we

HOW WE DEFEATED PROP 73

TOTAL "NO" VOTES
3,465,629 (52.6 percent)

TOTAL "YES" VOTES
3,130,062 (47.4 percent)

A WINNING COALITION

Planned Parenthood, ACLU and NARAL Pro-Choice California.

CAMPAIGN ACTIVITIES

Phone banking, precinct walking, public information events, fundraisers and media commentary

THE RESULT

San Francisco voters (79 percent) cast the highest number of "No" votes, and Marin County the second highest. Also 66 percent of San Mateo County voters opposed the proposition.

Voters in support of the measure came mostly from southern, mountain and Central Valley counties, such as San Bernardino, Riverside, Orange, San Diego and Fresno. However, in Los Angeles County, Prop 73 was defeated by 57-43 percent margin.

were doing—both that day and throughout the campaign—was really impacting people in profound ways," Cramer said. "It made me so happy that it was difficult to hold back and not give him a huge hug." ■

NATIONAL ACLU NEWS ROUNDUP

ACLU CALLS FOR INVESTIGATION INTO NSA DOMESTIC SPYING PROGRAM

In a formal request to Attorney General Alberto Gonzales, the ACLU has called for the immediate appointment of an outside special counsel to investigate and prosecute any criminal acts and violations of laws as a result of the National Security Agency's surveillance of domestic targets as authorized by President Bush.

"President Bush's disregard and disrespect for the Constitution are evident, but in America, we are all bound by the rule of law," said Anthony D. Romero, ACLU Executive Director. "The president took an oath to 'preserve, protect and defend the constitution of the United States.' He cannot use a claim of seeking to preserve our nation to undermine the rules that serve as our foundation. The Attorney General, who may have been involved with the formulation of this policy, must appoint an outside special counsel to let justice be served."

The Foreign Intelligence Surveillance Act of 1978 states that electronic surveillance is only permissible following "a search warrant or court order." The statements of the president and other officials make it clear that domestic surveillance, without court approval or review, has occurred and will continue to occur.

The ACLU's call for an independent special counsel follows its expedited records request, under the Freedom of Information Act, to the NSA, the Department of Justice and the Central Intelligence Agency for information about the NSA's program of warrantless spying on Americans.

ACLU DISCOVERS FBI SPIED ON ENVIRONMENTAL AND ANIMAL RIGHTS GROUPS

The ACLU has obtained documents through Freedom of Information Act requests that show the FBI used counterterrorism resources to monitor and infiltrate domestic political organizations that criticize business interests and government policies.

The documents show that groups monitored by the FBI under the agency's expanded definition of "domestic terrorism" include Greenpeace, People for the Ethical Treatment of Animals, the American-Arab Anti-Discrimination Committee and the Catholic Workers Group.

"The FBI should use its resources to investigate credible threats to national security instead of spending time tracking Americans who criticize government policy, or monitoring groups that have not broken the law," said Ann Beeson, Associate Legal Director of the ACLU. "Labeling law abiding groups and their members 'domestic terrorists' is not only irresponsible, it has a chilling effect on the vibrant tradition of political dissent in this country."

ACLU affiliates in 20 states have filed similar requests on behalf of more than 150 groups and individuals. Last year, the ACLU of Colorado revealed that the FBI had tracked the names, license plate numbers and vehicle registration information of participants at a peaceful protest in 2002 of the North American Wholesale Lumber Association in Colorado Springs.

Meanwhile, the ACLU's three California affiliates are seeking information about the intelligence gathering efforts of law enforcement agencies in this state. Public records act requests filed with the state attorney general focus on the California Anti-Terrorism Information Center's policies and information the agency may have received regarding the ACLU's Califor-

nia affiliates and chapters, Greenpeace, People for the Ethical Treatment of Animals, United for Peace and Justice, Food not Bombs, Code Pink, UC Santa Cruz Students Against the War, Fresno State Campus Peace and Civil Liberties Coalition, Peace Fresno, War Resisters League West, College Not Combat, and the American-Arab Anti-Discrimination Committee.

ACLU APPLAUDS "INTELLIGENT" DECISION

A Pennsylvania federal judge in December sided with the ACLU in his ruling that "intelligent design" would violate the Constitution if taught in public school science classrooms because it is a religious belief and not a valid scientific theory.

The landmark case *Kitzmiller v. Dover* is the first legal challenge to teaching "intelligent design," an assertion that an intelligent supernatural entity has intervened in the history of life. On behalf of 11 parents of students in the Dover Area School District, The ACLU of Pennsylvania, Pepper Hamilton, LLP and Americans United for the Separation of Church and State challenged the school board's 2004 policy requiring high school science teachers to present "intelligent design" as an alternative to evolution.

Judge John E. Jones III ruled that the policy violated the plaintiffs' religious liberty and that the school board acted to promote their own religious views rather than advance science education. "The verdict is truly a victory for the Constitution," said ACLU of Pennsylvania Legal Director Witold Walczak, a lead attorney for the plaintiffs. "We are very pleased Judge Jones agreed with the plaintiffs and that public school science instruction will not be muddled with religious beliefs masquerading as scientific theories." ■

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

SAN JOSE OFFICE OPENS ITS DOORS

By Amy Kurren

For the first time in its 72-year history, the ACLU of Northern California has opened a satellite office to meet the region's growing civil liberties demands. The new San Jose office opened Nov. 16 with a fiesta-style reception for the South Bay's news reporters, nonprofit advocacy groups, elected officials and other community members.

Aside from establishing a strong ACLU presence in one of the nation's most populous and diverse cities, the San Jose branch will focus on privacy issues related to emerging technology, policing, racial profiling, immigrant rights, and reproductive rights, among other areas.

"This is a time of tremendous assault on civil liberties," said Dorothy Ehrlich, Executive Director of the ACLU of Northern California (ACLU-NC). "We hope the San Jose office will add to the tremendous leadership here, and that we can work together to promote our rights."

Sanjeev Bery, a Modesto native and Indo-American, is director of the San Jose Office. As an ACLU-NC field organizer, he rallied activists to call on Congress to reform the USA Patriot Act and pass resolutions against the swiftly enacted anti-terrorism law. As the campaign's chief liaison between the Northern California ACLU affiliate and its 5,000 members in San Jose,

Bery is well positioned to build partnerships with activists in the South Bay.

"I am excited to be joining the family of organizations in San Jose fighting for civil liberties, and hope together we can ensure that our core freedoms are advanced," Bery said.

Lately, Bery has been busy working with various groups to reform the way San Jose police use Taser stun guns. Two San Jose men have died in the last year after being Tasered by police.

Meanwhile, the office's setting in the nation's high-tech capital will be conducive to the work of ACLU-NC attorney Nicole Ozer,

the affiliate's Technology and Civil Liberties Policy Director.

"Silicon Valley is at the forefront of technological advancement, and as we advance, we need to make sure civil liberties don't get left behind," Ozer said.



Technology & Civil Liberties policy director Nicole Ozer (left), San Jose office director Sanjeev Bery, and ACLU-NC associate director Maya Harris.



San Jose office director Sanjeev Bery with ACLU-NC executive director Dorothy Ehrlich.

At the San Jose office, Ozer will focus on email privacy, personal surveillance, and Radio Frequency Identification tags (RFIDs), among other technology concerns. "We want to encourage and spur technological innovation, but at the same time protect our privacy," Ozer said.

"I AM EXCITED TO BE JOINING THE FAMILY OF ORGANIZATIONS IN SAN JOSE FIGHTING FOR CIVIL LIBERTIES, AND HOPE TOGETHER WE CAN ENSURE THAT OUR CORE FREEDOMS ARE ADVANCED."
—SANJEEV BERY, SAN JOSE OFFICE DIRECTOR

At the reception, community leaders and activists heartily welcomed the ACLU-NC's decision to open a San Jose branch. Supervisor Jim Bell spoke of the need to protect the civil liberties of all South Bay residents, from immigrants to the thousands of inmates in the county jail.

Supervisor Blanca Alvarado was also glad to have the ACLU close by. "I look forward to you ensuring that the mission of the ACLU is foremost in the minds of the people here," she said. ■

SAN JOSE PROGRAM MONITORS TECHNOLOGY'S IMPACT ON PRIVACY AND FREE SPEECH

By Nicole Ozer

From its home base in the new San Jose Office, the Technology and Civil Liberties Program is working hard to ensure that as technology advances, civil rights do not get left behind.

New technology is truly revolutionizing how we communicate and live. But, all too often, government or businesses promote the ease and efficiency of a new technology while overlooking or ignoring its privacy or free speech implications. From Sutter to San Francisco, the program is a strong voice for civil liberties.

For example, when public school students as young as 5 years old in the small town of Sutter, California, were forced to carry RFID (Radio Frequency ID) embedded school badges, the Technology and Civil Liberties Program rolled into action.

We assisted parents in successfully arguing against the use of RFID chips and forced the company to pull the program from the school district. The story attracted national and international attention, educated countless people about the dangers of RFID technology, and spurred lawmakers in California to introduce groundbreaking legislation, The Identity Information Protection Act (SB 768).

With continued pressure by ACLU members, SB 768 and similar bills throughout the country will hopefully be signed into law this year to safeguard privacy and security

in the event that RFID tags are used in state identification documents.

Moreover, the Technology and Civil Liberties Program has also been extremely busy in its efforts to stop the proliferation of public video cameras. Cities such as San Francisco, Oakland, Richmond and Ripon, have either installed video cameras on public streets or are considering doing so, despite long-term research that indicates video cameras are not effective at preventing or reducing crime, that they sacrifice privacy by zooming in to monitor and record what you do and that they create a new and easy tool for discriminatory targeting, voyeurism, stalking or blackmail.

The Technology and Civil Liberties Program has been informing policymakers and the public that video cameras sacrifice precious civil rights for very little in return, and has been working with communities to advocate for real solutions such as community policing that help make us safer while respecting civil rights.

More information about the current work of the Technology and Civil Liberties Program and about ways that you can get involved is available by visiting our website at www.aclunc.org. ■

Nicole Ozer is the ACLU-NC's Technology and Civil Liberties Policy Director

'REAL ID' LIKELY TO BE REAL NIGHTMARE

As part of an anti-terrorism measure, Congress last spring passed the Real ID Act, which would essentially turn driver's licenses into national identity cards. Backed by Republican Congressman James Sensenbrenner, chairman of the House Judiciary Committee, the law requires that all state driver's licenses include a digital picture and the license holder's information in a machine readable format by 2008. All the information will be kept in national databases accessible to all 50 states and the federal government.

This way, states can detect duplicate applications, track down illegal immigrants and share driving histories. Meanwhile, the old driver's licenses will no longer be accepted for such federal security purposes as boarding an airplane, opening a bank account, or entering a federal facility.

The ACLU objects to the law on grounds that it will violate privacy, target immigrants and expose people to ID theft and other abuses. It is pushing for Congress to hold hearings and consider the civil liberties and logistical consequences.

State motor vehicle officials, who are charged with carrying out the Real ID Act, say the logistical, technological and financial demands of the law are unrealistic, and have serious doubts that states will be able to comply with the law. ■

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

VOLUNTEER TO MAKE A DIFFERENCE

By Patrick Band, Sonoma County Chapter Board member

During the winter months, it seems we can't turn on the TV or walk outside without hearing pleas for support from countless needy organizations. Men and women with red kettles and bells ask for our change as we emerge from the grocery store or the mall. Glossy ads in magazines remind us of the many hungry children in our own backyards. Radio commercials tell us how we can help a family in need; and our email inbox reminds us daily that there are always political causes in need of petition signers.

With the buzz of all this generosity and activism, it's easy to forget the one thing many organizations need most: volunteers. The ACLU is no different.

That's not to say that signing petitions, supporting bans and sending letters to elected representatives explaining why we must repeal the PATRIOT Act is unimportant. But in my view, what we need is an honest return to grassroots activism.

In the recent special election, the ACLU of Northern California came out in strong opposition to Proposition 73, the Parental Notification Initiative. What looked like an impossible fight three months from Election Day transformed into a last-minute victory through the dedication and hard work of hundreds of volunteers.

Much of the margin of victory is attributable to the open, visible nature of the campaign. Volunteers in Sonoma County, and other communities throughout North-

ern California, went so far as to stand in the pouring rain the evening before Election Day, complete with sandwich boards and handbills urging voters to reject Prop 73. This, after spending countless hours phone banking voters. Local news media noticed our dedication and perseverance, and covered the event on the evening news.

That's really what it's about. Showing up, making a strong case in person, and telling others how they can do the same. It's also, sadly, an area where far too many ACLU chapters fall short. Volunteering should be rewarding. It should teach the individual about their community, and benefit the organization at the same time. And if at all possible, it should be fun.

A 2002 study on volunteering showed that "membership in a volunteer organization is more likely to stimulate higher levels of electoral turnout and attentiveness to news and current affairs." It went on to say that volunteers "show a feeling of being connected to their community, [exhibit] less risky behavior, and better performance in school and work" Maybe that's why we won in November. Or maybe not. Either way, it's not a bad argument for getting involved in your local chapter. ■

Anyone interested in volunteering should contact their local chapter or ACLU-NC volunteer coordinator Matt Walters at mwalters@aclunc.org or (415) 621-2493 ext. 383.

CHAPTER EVENTS

THE ACLU MID-PENINSULA CHAPTER

invites you to a
wine and cheese get-together

**Saturday, April 8
4 - 7 p.m.**

Fireside Room
Unitarian Universalist Church of Palo Alto
(UUCPA)
505 E. Charleston, Palo Alto

Mingle with the new Board Members, and get a chance to voice your concerns and help with solutions. Bring a guest and get them involved!

Directions: From 101 North or South:

Take San Antonio Road exit. At the first light, take a right onto E. Charleston and pass Middlefield Road. The UUCPA and parking will be on your right.

Contact Harry Anisgard at (650) 856-9186 for additional information.

ACLU-NC CHAPTER MEETING SCHEDULE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STANISLAUS COUNTY CHAPTER MEETING: Fourth Monday of every month from 7 - 9:30 p.m. at the Modesto Peace/Life Center, 720 13th Street, Modesto. Contact chapter hotline for more information: (209) 522-0154 or stanaclu@sbcglobal.net. Contact Tracy Herbeck for more information: (209) 522-7149.

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

NEW CHAPTERS ORGANIZING

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

SACRAMENTO COUNTY CHAPTER MEETING: Regular meetings. Contact Mutahir Kazmi for more information: (916) 686-8365

SOLANO COUNTY: Contact Don Halper for more information: (707) 864-8248

CAMPUS CLUBS

BERKELEY CAMPUS ACLU: Every Tuesday at 7 p.m. at 121 Wheeler Hall. For more information, visit www.berkeleyaclu.com or contact Rosha Jones at rjones@uclink.berkeley.edu

DAVIS CAMPUS ACLU: Contact James Schwab for more information: (530) 756-1482 or jmschwab@yahoo.com

SANTA CLARA UNIVERSITY LAW: Contact Pamela Glazner for more information: pglazner@scu.edu.

ASK THE EXPERTS! GANG INJUNCTIONS

WHAT ARE GANG INJUNCTIONS, AND WHY IS THE ACLU AGAINST THEM?

Gang injunctions started in California in the 1980s to put an immediate stop to criminal activity and weaken the grip of gangs over communities. Essentially, they criminalize otherwise legal activities for a targeted group of people. Initially, gang injunctions were focused on small areas, say, a few blocks, so their impact was not as widespread. However, in recent years, their scope has broadened, making it harder for those who live in the targeted “safety zone” to go about their daily lives. Once an injunction has been put in place, those covered by

it have limited recourse to challenge it. This is why it’s important for law enforcement agencies requesting an injunction to notify all those named or targeted. In general, the ACLU of Northern California (ACLU-NC) is against gang injunctions because they restrict the civil liberties of not only those served, but also their friends, family members and anyone who associates with them. Another reason the ACLU is against gang injunctions is because they disproportionately target people of color.

HOW DOES A PROSECUTOR OBTAIN A GANG INJUNCTION?



Jory Steele

Usually, a county district attorney or city attorney starts the process by building a case against a certain gang. This entails demonstrating that the gang is creating a public nuisance. The complaint can identify a gang in general terms, or it can name suspected gang leaders or members. In the case of West Sacramento, for example, the injunction applies to

350 individuals identified by the police, even though only 10 were actually named in the complaint. Those targeted by the complaint should be notified so that they have the opportunity to challenge it in court. After all, once the injunction is in place it is very hard to appeal. Also, if most of those targeted are not named in the injunction, as was the case in West Sacramento, the police automatically have a roving warrant that allows them to serve anyone in the community, a discretion that can lead to arbitrary enforcement and racial profiling.

WHY THE FOCUS ON WEST SACRAMENTO?

The Yolo County injunction is particularly egregious because of the way the district attorney rushed it through without meeting constitutional due process standards. Though the injunction covers 350 suspected gang members and their associates, the district attorney served only one person with notice of the court hearing at which the injunction could be challenged. That person was in no position to attend the hearing, nor was he able to notify others of the injunction. Nonetheless, the district attorney moved forward as though his office had met the constitutional requirements. The result was, no one showed up for the hearing because they were unaware of it, and thus were unable to challenge it

In December 2004, the Yolo County district attorney issued a sweeping permanent civil injunction against the Broderick Boys, an alleged criminal street gang. As a result, the civil liberties of many residents in the largely Latino neighborhoods of West Sacramento have been curbed. Among other restrictions, the injunction forbids those identified by police as gang members from associating with one another in public inside a 3-mile “safety zone,” which includes 80 percent of the city and City Hall. It also imposes on them a lifetime 10 p.m. curfew. Indeed those targeted are living under much the same terms as criminals on permanent probation, without being convicted of a crime. Jory Steele, staff attorney with the ACLU of Northern California, is representing four West Sacramento men whose lives have been dramatically disrupted by the injunction. She answers questions about this controversial crime-stopping measure and why it threatens civil liberties.

GANG INJUNCTIONS... RESTRICT THE CIVIL LIBERTIES OF NOT ONLY THOSE SERVED, BUT ALSO THEIR FRIENDS, FAMILY MEMBERS AND ANYONE WHO ASSOCIATES WITH THEM.

community of West Sacramento under the injunction’s restrictive and divisive shadow. Those targeted cannot attend their children’s sports games, park barbecues or other outdoor events for fear of running into others covered by the injunction. This can get complicated. For example, if a child gets sick at night and needs to go to the hospital, the parent can run the risk of being arrested for leaving home after curfew.

WHAT CRITERIA DO POLICE USE TO IDENTIFY GANG MEMBERS?

Under 11 criteria used by the West Sacramento police, a person can be identified as a gang member if he or she fits into two or more of the following categories:

1. Admits to being a gang member.
2. Identifies himself as a gang member in written or other correspondence.
3. Is identified as a gang member by a known gang member.
4. Is tattooed with a gang logo or other specific gang tattoos.
5. Wears gang clothing or gang colors, such as red or blue.
6. Is seen in the company of known gang members.
7. Is seen in a photograph of gang members.
8. Is contacted by police because of participation in gang-related activities
9. Is seen displaying gang signs.
10. Puts gang graffiti on personal belongings
11. Is involved in gang-related crimes

WHAT IF I DON'T BELONG TO A GANG? CAN I STILL BE IMPACTED BY A GANG INJUNCTION?

Yes. You can be subject to the injunction even if all you did was associate with gang members. Moreover, if your friends or relatives are subject to the injunction, your life can be affected by the restrictions imposed on them.

or remove their names from it. In response, the ACLU-NC filed a motion asking the judge to set aside the injunction because those targeted by it did not get their day in court. However, a judge in November denied the request, leaving the tight-knit

community of West Sacramento for a significant public nuisance.

IS THERE ANY EVIDENCE TO SUGGEST THAT GANG INJUNCTIONS WORK? MAYBE THEY HELP?

Evidence as to whether gang injunctions help is inconclusive at best. In the case of West Sacramento, however, we do know that community members of all ages and backgrounds have protested the injunction. As yet, we have heard of not one community member who supports it.

IS THERE A VIABLE ALTERNATIVE TO GANG INJUNCTIONS?

Yes. Community policing is a better solution for curbing crime. If people get to know and trust their local beat officers, they’re more likely to go to them with problems and let them know about suspicious activity. But in some communities, people feel as afraid of police as they do of gangs. In West Sacramento, for example, there have numerous allegations of police brutality. It is therefore important for police to build relationships in communities under their protection. ■

WHAT HAVE THE COURTS SAID ABOUT THE CONSTITUTIONALITY OF GANG INJUNCTIONS?

In a case brought by the ACLU-NC, and decided in 1993, the California Supreme Court upheld a civil gang injunction as a law enforcement tool. However, the courts have recognized the impact that such injunctions can have on constitutional rights, and have thus required that the prosecutor make the case by “clear and convincing” evidence and that the terms of the injunction be narrowly tailored. That is why we feel that it is important to represent persons affected by gang injunctions when the prosecutors are overreaching and do not have sufficient evidence to prove that an organized gang is responsible

ACLU FORUM

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

WE WANT TO HEAR FROM YOU!

For the next issue, please send us questions about:

Government Spying & Surveillance

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

Send your questions and comments to gpdian@aclunc.org with the subject line “Letter to the Editor,” or write to
Letter to the Editor
1663 Mission Street #460
San Francisco, CA 94103