

# ACLUnews

WINTER 2007

BECAUSE FREEDOM CAN'T PROTECT ITSELF

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MICHAEL WOOLSEY

*Dorothy Ehrlich (center) in the audience at Bill of Rights Day with family members including her daughter Jill (left) and husband Gary Sowards (right).*

## DOROTHY EHRLICH: BILL OF RIGHTS DAY HONOREE

By Ravi Garla

**D**orothy Ehrlich, the honoree at our annual Bill of Rights Day Celebration on December 10, bade an official farewell to the over 700 members and supporters of the ACLU of Northern California in attendance at Herbst Theatre in downtown San Francisco.

In her customary display of generosity and leadership, Ehrlich, the Executive Director of the ACLU-NC from 1978 to late 2006, turned the event dedicated to celebrating her three decades of service to civil liberties into a salute of the many staff and board members who worked alongside her.

She remarked, "It has been a magnificent collaboration and I have loved working with you all for 28 years." She added that one of her greatest accomplishments was "persuading Maya Harris to come join our staff. I cannot wait to see this

organization soar on Maya's wings."

Her words echoed the very personal and celebratory nature of the day, which featured prominent speakers drawn from around the country, all of whom were either inspired or empowered by Ehrlich in the process of working with her.

Maya Harris, the newly appointed Executive Director of the ACLU-NC, spoke of the vision, leadership, and mentorship Ehrlich provided – Harris' voice quaking as she described what many others would that day: the difficulty of watching both a

friend and a trailblazer for civil liberties move on.

From the stage upon which the United Nations Charter was signed sixty years ago, speakers added the human details to the transformation under Ehrlich's watch, of the ACLU-NC into the largest ACLU affiliate and one of the most effective.

Reflecting on getting his start as an ACLU-NC Friedman Education Project participant, Preetmohan Singh recalled the support provided to him even as a high school student. "Rather than being token members to display to funders" he

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## CALIFORNIA VOTERS "GET REAL" AND PROP 85 IS DEFEATED

By Margaret Crosby

**F**or the second year in a row, California voters have rejected an initiative to amend the state Constitution to restrict teenagers' reproductive rights. Proposition 85, like Proposition 73 on the 2005 ballot, would have required adolescents under 18 seeking abortions to notify a parent or secure a court order. Californians recognized that bad initiatives do not get better with age: while Proposition 73 failed by a 5.6 percent margin, Proposition 85 lost by 8.4 percent.

The victory indicates that California voters heeded our campaign's message to "get real and accept that in the real world teens do not live in picture-perfect homes where there is always a parent they can count on. The defeat of yet another attempt to restrict abortion rights has important implications for all young women,

for the reproductive rights movement in California, and for reproductive freedom nationally.

Most importantly, the defeat of Proposition 85 averted serious harm to California's teenagers—particularly those who live in troubled homes. The backers of Proposition 85 painted pictures of smiling teens in earnest conversation with happy parents. But, as every court recognized in the ACLU's successful challenge to California's 1987 parental consent law, adolescents who live in supportive families need no laws to confide in their parents when faced with an unplanned pregnancy. Proposition 85 targeted teenagers who don't talk about pregnancy for very good reasons: they live in families struggling with mental illness, homelessness, alcoholism, drug addiction,

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# ACLU-NC NAMES NEW EXECUTIVE DIRECTOR

The Board of Directors of the ACLU of Northern California selected Maya Harris, a statewide leader in civil rights and civil liberties, to head the country’s largest affiliate.

“We are thrilled to have Maya Harris assume the leadership of the ACLU of Northern California,” said Quinn Delaney, Chair of the ACLU-NC Board of Directors. “With a staff of 50 and a membership of nearly 55,000, we know that Maya will set a high standard of leadership. She has the full backing of the Board and the staff. Her unique experience as a civil litigator, law school professor and dean, and policy analyst made her the obvious choice to provide the dynamic leadership our affiliate needs at this important time in our nation.”



Maya Harris

Harris took the helm October 23, succeeding Dorothy M. Ehrlich, who was the executive director of the ACLU-NC for more than twenty-five years. Ehrlich has been appointed the Deputy Executive Director of the national ACLU.

“I am honored to take on the leadership of this organization at a time when the strength and steadfastness of the ACLU is more important than ever,” said Harris. “I have had the great fortune to work alongside Dorothy, who has built an extraordinary affiliate and been a great role model to follow. I look forward to collaborating with our dedicated Board, staff, and chapters as we take our affiliate to new heights.”

Harris has experience in litigation, media, lobbying, and grassroots organizing work. She joined the ACLU-NC in 2003 as Director of the affiliate’s Racial Justice Project, working on educational equity and criminal justice issues and leading affiliate campaign efforts to oppose Propositions 54 (“racial privacy”) and 69 (DNA) and pass Proposition 66 (Three Strikes reform).

In 2005, she became the Associate Director, developing and implementing the ACLU-NC’s priority campaigns and overseeing the Policy Department, including work in the areas of racial

justice, police practices, and the death penalty.

“Maya Harris is an extraordinary leader with a deep commitment to the critical work of the ACLU,” said Dorothy Ehrlich, ACLU-NC’s former Executive Director. “I cannot imagine a more capable advocate to lead the ACLU of Northern California at a time when we are confronting the most serious assault on civil liberties of our generation.”

Harris is a contributing author to the recently published book, *The Covenant with Black America*, a collection of essays by leading African

American intellectuals that climbed to #1 on the *New York Times Book Review*. She is the first African American to lead the ACLU-NC and the first South Asian executive director of any ACLU affiliate.

Before joining the ACLU, Harris was a Senior Associate at PolicyLink, where she specialized in policing issues. While at PolicyLink, she authored the national publications “Community-Centered Policing: A Force for Change” and “Organized for Change: The Activist’s Guide to Police Reform.”

Prior to her work at PolicyLink, Harris served as Dean of Lincoln Law School of San Jose. Her work in academia was preceded by her work as a civil litigator at the San Francisco law firm of Jackson Tufts Cole & Black, LLP.

Harris grew up in Oakland and graduated from Stanford Law School. She has taught as an adjunct law professor at several Bay Area law schools. She is also the recipient of the Junius W. Williams Young Lawyer of the Year Award from the National Bar Association, and was named one of California’s Top 20 under 40 lawyers by California’s leading legal newspaper, the *Daily Journal*. ■

## FORMER ACLU STAFF ATTORNEY AMITAI SCHWARTZ RECEIVES AWARD

By Jeremy Chen

Amitai Schwartz, an ACLU cooperating attorney, was one of 16 recipients of the first annual Angel Awards from *California Lawyer* for his commitment to pro bono work.

Recently, Schwartz and the ACLU-NC filed Freedom of Information Act requests regarding the Department of Defense’s database of anti-war and student groups at UC Berkeley and UC Santa Cruz. As the prevailing party in the case, Schwartz donated his attorney’s fees to the ACLU-NC.

Each year he works several hundred hours pro bono. “When I come home, my wife often asks me if I billed anyone today. If you don’t need to earn a huge salary, there’s a lot of time for this sort of work,” Amitai told the *California Lawyer*.

As an ACLU-NC staff attorney in the late seventies, Schwartz dedicated much of his time to civilian police review boards and the establishment of the San Francisco Office of Citizen Complaints. Amid a recent resurgence of police union resistance to an open process, he wrote and filed amicus briefs detailing the need for police transparency in stemming police abuse.

Despite having left the ACLU-NC 20 years ago to start his own practice, his commitment to the ACLU and pro bono work has never wavered, as Schwartz continues to defend civil liberties. ■

## ACLU OPEN HOUSE: ROMERO A HIT WITH SUPPORTERS

On September 28, 2006, ACLU supporters gathered at the ACLU of Northern California’s new headquarters for an Open House with national ACLU Executive Director Anthony Romero. The event included tours of the new building, which also houses offices for the national ACLU’s Immigrants Rights Project and Lesbian & Gay Rights and AIDS Project.



Anthony Romero (left) talks with board member Marlene De Lancie.

Dorothy Ehrlich (center), former ACLU-NC Executive Director celebrates with former ACLU-NC board members Al Baum and Emily Skolnick.



Quinn Delaney, Board Chair (center), stands before a mural depicting the ACLU-NC’s history with former board chairs and current board members Dick Grosboll and Nancy Pemberton.



Maya Harris, new ACLU-NC Executive Director, chats with supporter Wayne Jordan.

PHOTOS: MICHAEL WOOLSEY

### BOARD ELECTION RESULTS

The ACLU of Northern California is proud to welcome new Board members Patrice Harper and David Oppenheimer, who were elected in the 2007 Board Election by the membership of the ACLU-NC. Congratulations to incumbent Board members Quinn Delaney, Linda Lye, Barbara Macnab, Susan Mizner, Philip Monrad, Davis Riemer, Ronald Tyler and Natalie Wormeli, who will serve a second term.

We thank outgoing Board members Donna Brorby, Peter Kwan and Roberta Spieckerman (BARK Plus Chapter) for their service, and welcome new chapter representatives to the Board Charles Douglas (Redwood Chapter), Steve Fabian (Sonoma Chapter), Elliot Halpern (BARK Plus Chapter), and Elliot Ruchowitz-Roberts (Monterey Chapter).

### ELECTION OF OFFICERS & EXECUTIVE COMMITTEE MEMBERS

At their December 14, 2006 meeting, the ACLU-NC Board of Directors elected incumbent officers Quinn Delaney (Chair), Bob Capistrano (Legal Committee Chair), Susan Freiwald (Development Committee Chair), Lisa Honig (Legislative Policy Committee Chair), and Nancy Pemberton (Secretary/Treasurer). In addition, Natalie Wormeli was newly elected as Field Activists Committee Chair.

Elected to the Executive Committee were: Cherri Allison, Dick Grosboll (incumbent), Goodwin Liu, Philip Monrad (incumbent), Fran Strauss (incumbent, member emeritus), David Sweet (incumbent), Ronald Tyler (incumbent) and Peter Yessne.

## ACLUnews

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# CIVIL RIGHTS GROUPS FILE LAWSUIT DEFENDING FRESNO'S HOMELESS

By Stella Richardson

Pamela Kincaid, 51, has lived in a tent for the last five years in an area just south of downtown Fresno. About a year ago, she left her property unattended and when she returned it was gone. Almost everything was taken, including her birth certificate, her telephone address book, her tools for making crafts that she sold, and her clothing. “Worst of all, I lost family photos, including the only pictures I had of my sister, my daughter, and my deceased mother. Those photos can never be replaced,” said Kincaid.

Kincaid was not alone in her loss. For the past three years the Fresno police and sanitation workers have been bulldozing the areas where homeless people live. Many of the homeless have lost family photos, medicine, clothing, and the tents and sleeping bags they rely on for shelter. Advocates say that more than 8,000 people are homeless in Fresno. The city’s three shelters have room for only about 225 people a night.

The ACLU of Northern California, the Lawyers Committee for Civil Rights, and the law firm of Heller Ehrman LLP sued the city in federal court on the behalf of Kincaid and all of Fresno’s homeless people arguing that the city is violating the constitutional rights of the homeless.

“The city cannot seize and destroy someone’s property just because they are homeless,” said Paul Alexander, a partner at Heller Ehrman. “The Constitution does not allow it.”

Michael Risher, ACLU-NC staff attorney added: “The city’s attacks on its homeless people violate their constitutional rights to be free of unreasonable seizure of property and deprivation of property without due process of law, and specific California statutes that require the government to safeguard property that comes into its possession.”



Michael Risher, ACLU-NC staff attorney, speaks out in defense of the homeless at a Fresno press conference.

On November 22, following four days of testimony, U.S. District Judge Oliver W. Wanger agreed with the ACLU saying the city was violating the constitutional rights of the homeless. The judge blasted the city’s policy of destroying the property of homeless people saying it was “dishonest and demeaning,” and granted a preliminary injunction ordering the city to immediately stop seizing and destroying their property without warning while the lawsuit proceeds.

The decision came just in time as winter begins and temperatures drop to the low 30s with heavy rains in Fresno. At least for now, the homeless will not have to worry that the city will destroy their clothing and makeshift homes as their case works its way through federal court. ■



A bulldozer destroys property of the homeless in Fresno.

## FREE SPEECH VICTORY ON THE INTERNET

By Stella Richardson

In a victory for free speech on the Internet, the California Supreme Court ruled on November 20 that no provider or user of an interactive computer service may be held liable for putting material on the Internet that was written by someone else. This reversed an earlier decision by the Court of Appeal.

The ACLU-NC and the Electronic Frontier Foundation filed an amicus brief in the California Supreme Court arguing for a broad interpretation of Section 230 of the Federal Communications Decency Act.

The case raised two important issues: (1) whether the immunity provided by Section 230 applies even if an ISP, Web site, or other forum host “knew or should have known” that a third party’s posting was defamatory; and (2) whether the provision applies to individuals who use the Internet to pass on information from a third party, whether by forwarding an e-mail written by someone else or by posting an e-mail from someone else to a newsgroup.

The Court’s ruling reaffirmed Section 230’s broad grant of immunity in both respects and held that individuals enjoy the same protection under Section 230 that blogs, Web sites, listservs, and ISPs enjoy. This affirms what Congress said when it made Section 230 applicable to both “interactive computer services” and to “users” of those services.

“By reaffirming that Congress intended to grant protection under Section 230 to those who provide a forum for the views of others, the court has ensured that the Internet will remain a vibrant forum for debate and the free exchange of ideas,” said ACLU-NC staff attorney Ann Brick, who helped argue the case in the Supreme Court. ■

### LEGAL BRIEFS

By Stella Richardson

#### CALIFORNIA SUPREME COURT AGREES TO HEAR APPEAL IN SAME-SEX MARRIAGE LAWSUITS

On December 20, 2006, the California Supreme Court agreed to hear appeals in the lawsuits seeking marriage equality for same-sex couples. The appeal was prompted by an October California Court of Appeal ruling that found that California may continue to bar same-sex couples from marriage.

The couples and organizations are represented by the National Center for Lesbian Rights, the ACLU, Lambda Legal, Equality California, Heller Ehrman LLP, and the Law Office of David C. Codell.

More than 250 religious and civil rights groups including the California NAACP, Mexican American Legal Defense and Educational Fund, and the California Council of Churches, filed amicus briefs supporting marriage for same-sex couples.

Also, in April 2005, San Francisco Superior Court Judge Richard A. Kramer ruled that barring same-sex couples from marriage unconstitutionally discriminates on the basis of sex and violates the fundamental right to marry.

In 2005, the California legislature passed AB 849, the Religious Freedom and Civil Marriage Protection Act sponsored by Equality California, which would have granted equal treatment under the law by allowing same-sex couples to marry in California. Governor Schwarzenegger vetoed the bill.

#### FEDERAL COURT FAILS TO PROTECT JOURNALIST’S FIRST AMENDMENT RIGHTS

The ACLU of Northern California filed an amicus brief on October 19, 2006 before the United States Court of

Appeals for the Ninth Circuit on behalf of Joshua Wolf, an independent journalist and videographer. Wolf refuses to turn over to a federal grand jury outtakes of footage he shot at a San Francisco protest.

The brief was filed after a three-judge panel ordered that Wolf’s bail be revoked unless he cooperated with the grand jury. Wolf refused and went back to prison for the second time where he still remains.

In filing the brief, the ACLU-NC requested that the case (*Wolf v. United States of America*) be reheard by the Court, en banc, arguing that the “underlying facts of this case bear hallmarks of the governmental overreaching into areas of free speech and freedom of the press.” The Ninth Circuit, however, refused to rehear the case.

Alan Schlosser, Legal Director of the ACLU-NC said, “The court’s decision ignores the important First Amendment interests requiring a reporters privilege, undermines the public interest in an active and free press, and abdicates the necessary judicial role in carefully balancing the First Amendment and the government’s law enforcement needs. Journalists should not be coerced into becoming government investigators without a strong showing of necessity.”

Thomas R. Burke and Rochelle L. Wilcox from the law firm of Davis Wright Tremaine LLP are cooperating attorneys on this case.

#### ACLU ASKS COURT TO NOT ISSUE SAN FRANCISCO GANG INJUNCTION WITHOUT NOTICE TO COMMUNITY

In response to San Francisco’s first request for a civil injunction against an alleged gang in the Bayview-Hunters Point area, the ACLU of Northern California filed an

amicus brief asking the court to deny the city’s request for a preliminary injunction.

The ACLU asked the Court to continue the October 30, 2006 hearing and direct the city to provide constitutionally adequate notice to all the individuals whom it intends to serve with the injunction so that they may have the opportunity to appear in court and contest the allegations against them.

“The city has only served and given notice to a few of a much larger group of individuals who are identified and targeted by this injunction,” said Michael Risher, staff attorney with the ACLU-NC. “To issue this injunction would deprive persons of due process rights and give the police a roving community warrant to impose these probation-like restrictions, and potential criminal penalties, on anyone they consider a gang member or associate.”

The City Attorney had only served legal notice on three of 22 men he named in the complaint. The lawsuit claims that the alleged gang has up to 80 members. The Court granted the ACLU’s request to continue the hearing.

At the subsequent hearing, San Francisco Superior Court Judge Peter Busch refused to give the police the authority to decide who would be bound by the order, instead ruling that only the 22 people be covered by the October 30 temporary restraining order would be bound by the preliminary injunction. As a result, if the City wants to restrict other individuals’ rights under the injunction, it will have to present clear and convincing evidence of that person’s gang membership in court.

Although the judge ultimately granted the city’s gang injunction in November, he denied the city’s request for a 10 p.m. curfew and instead approved a no-loitering provision between midnight and sunrise. ■



# STUDENT-TEACHER RETREAT EMPOWERS CAMPUS ACTIVISM

By Sarah Jo

Robert Mitchum, a junior at Washington High School in Fremont, formed a Gay-Straight Alliance club at his school just a few days after attending the Student Teacher Activist Retreat in October.

“Being at the retreat really gave me a chance to see a completely different side of how I personally viewed things that we discussed,” said Mitchum. “It gave me the strength and courage to start a Gay-Straight Alliance.”

Mitchum was one of 21 high school students and teachers from Northern California who took a break from their school-work to spend a weekend at Westerbeke Ranch in Sonoma to share successes, challenges and strategies while building their campus activism skills.

The fifth annual Student and Teacher Activist Retreat (STAR) was sponsored by the ACLU-NC’s Howard A. Friedman First Amendment Education Project and took place October 13-15, 2006. Teachers from Northern California applied for the retreat and nominated two of their students who were involved or had shown an interest in activism to attend with them.

Eight high schools were chosen from Berkeley, Castroville, Fremont, Hayward, Oakland, Pacifica and Vallejo.

During the retreat, teachers and students spoke freely about the difficulty of battling civil liberties issues on their campuses. ACLU-NC Staff Attorney Julia Harumi Mass and Civil Liberties Fellow

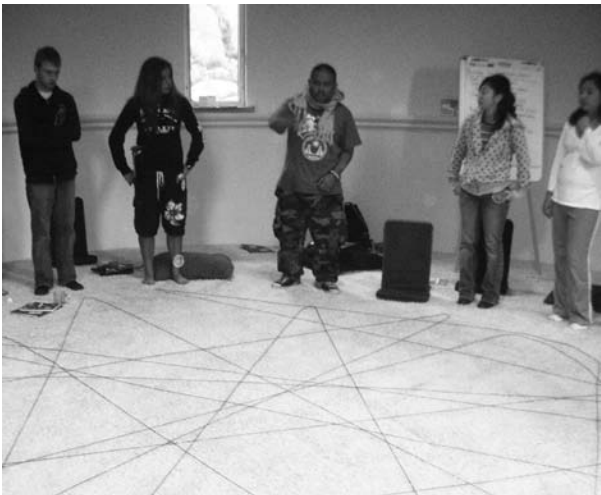
Juniper Lesnik facilitated a workshop on student rights and answered questions on topics such as freedom of speech and Fourth Amendment violations.

After the workshop, participants brainstormed through a set of real-life campus scenarios and came up with ideas about how to use activism to combat each problem. An important goal of STAR was to bring students and teachers together to teach and learn from each other and to strengthen their campus activism skills.

“The STAR retreat is unique on many fronts. It brings youth and adults from diverse communities across Northern California together with equal voice and with a common mission to make our schools and world a better place,” said Dennis Guikema, an educator from Ralph Bunche Academy in Oakland. “The weekend was a recipe for empowerment and change.”

By the end of the weekend, each school group had formed an action plan to implement on their campus. Some plans vowed to tackle the practice of racial profiling by school officials and others dealt with unlawful searches and seizures.

“Our program is committed to keeping in touch with STAR schools to support youth-led activism on campus,” said Friedman Education Project Director Eveline Chang. “The students and teachers we meet at these retreats are incredible, inspiring advocates working towards more just and equitable schools and protecting student rights on campus.” ■



*Retreat participants share campus activist goals during STAR closing session.*

## TEACHERS LEARN NEW LESSONS AT AFFILIATE’S FIRST EDUCATOR SOCIAL

By Ravi Garla

The ACLU of Northern California’s first ever Educator Social on October 28, 2006 drew 26 teachers from throughout the Bay Area. The group gathered at the ACLU-NC headquarters and watched the newly-released ACLU on-line documentary, *Tracked in America: Stories from the History of U.S. Government Surveillance* ([www.trackedinamerica.org](http://www.trackedinamerica.org)).

While enjoying refreshments, educators also learned about the ACLU-NC’s Howard A. Friedman First Amendment Education Project and other affiliate resources from directors and staff members. The teachers also previewed the ACLU-NC’s educational materials and programs that will debut early this year at the California Federation of Teachers statewide conference.

Participants particularly enjoyed the opportunity to network and meet like-minded professionals. “After spending all day with the comfortable, passive colleagues at my school,” said one teacher, “it’s amazing to be in a room with charged-up, passionate teachers willing to work for change.”

If you missed the social, not to worry, you can still download lesson plan ideas for *Tracked in America* by clicking on the ‘Educators’ tab at [www.trackedinamerica.org](http://www.trackedinamerica.org).

And don’t forget to look out for ACLU-NC materials at schools near you (participation may vary). See [www.aclunc.org/youth](http://www.aclunc.org/youth) for more information. ■



### ANONYMOUS EVALUATIONS OF THE RETREAT

#### From teachers:

“The STAR retreat put students in touch with students, which served to empower those in attendance. The food and accommodations were top notch and the connections will help to forward positive agendas throughout the Bay Area. It was especially nice to be included even though our school is way out in the boonies. Great people and terrific activities. We were able to put in place the action plan we developed.”

“I picked up some good energizer activities as well as an action plan to take back.”

“Energizing and inspiring. It gave all of us a sense of how our schools face different challenges but also what we all have in common—and a set of tools for doing concrete organizing once we get back.”

#### From students:

“I have learned how to organize S.M.A.R.T. (Specific Measurable Action oriented Realistic Time oriented) goals that will aid my activism experience for the rest of my life!”

“I have learned useful information [and] I have more confidence that my school can improve.”

“I feel a rejuvenated sense of hope. People are good and want to change!”

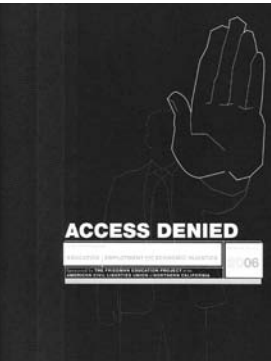
“I have learned of different programs and roles that could help get students involved and who could help start them.”

“I believe retreats like this are what students and teachers need.”

#### 2006-2007 STAR PARTICIPANTS

- Berkeley High School (Berkeley)
- Bethel High School (Vallejo)
- Ralph Bunche Academy (Oakland)
- Fremont Federation Media Academy High School (Oakland)
- North Monterey County High School (Castroville)
- Oceana High School (Pacifica)
- Tennyson High School (Hayward)
- Washington High School (Fremont)

### THE FRIEDMAN EDUCATION PROJECT’S SUMMER TRIP EXPOSÉ IS NOW AVAILABLE!



Check out *Access Denied: A Youth Study of Education, Employment, and Economic Injustice* at [www.aclunc.org](http://www.aclunc.org).

# TOWN HALL FOCUSES ON FREEDOMS AT RISK

By Justine Sarver

On September 27, 2006 an engaging group of national and local experts joined the ACLU of Northern California for a town hall meeting: “Our Freedom at Risk.”

Nearly two hundred people gathered at the San Francisco City Club to participate in a discussion with ACLU National Executive Director Anthony Romero; John W. Dean, Former White House Counsel; Banafsheh Akglaghi, Founder and President of National Legal Sanctuary for Community Advancement; and Ruth Jorgensen, Former President of Cal State Fresno Campus Peace & Civil Liberties Coalition. Margaret M. Russell, Professor of Law at Santa Clara University, was moderator for the evening.

The panelists and attendees alike expressed grave concern

about the status of civil liberties during this time of unprecedented assault on our rights in the name of national security. Participants used the opportunity to discuss pressing concerns such as: the overarching abuses of power at the federal level, military tribunals, the illegal NSA spying program, the violation of rights among Muslim Americans since September 11, 2001, and the surveillance and infiltration of political activist groups nationally and locally. Wireless Internet access at the meeting allowed attendees to take action on laptops and sign up for our email action network at [www.aclunc.org](http://www.aclunc.org). ■



LAUREN REID

*Banafsheh Akglaghi, Founder and President of National Legal Sanctuary for Community Advancement (left), and John W. Dean, Former White House Counsel.*

## SACRAMENTO REPORT

# A TIME FOR POLICY NOT POLITICS

By Vivek Malhotra

The November 2006 general election ushered in a new generation of state lawmakers to the Capitol in Sacramento. The effect of term limits, approved by California voters over a decade ago, has never been more apparent. Just under half the seats in the 80-member state Assembly turned over, with 36 new members joining that body. Out of the state's 40 senators, 12 are starting their first terms as well.

With all this new blood, we embark on the next legislative session with some degree of uncertainty, facing the considerable challenge of educating a fresh crop of legislators about the enduring civil liberties issues championed by the ACLU, and urging lawmakers to do the right thing. Much of our state policy agenda will be familiar -- protecting privacy and reproductive rights, reforming the criminal justice system, standing up for First Amendment freedoms, defending the due process and civil rights of immigrants, and upholding equality for all, to name a few. But the 2007-2008 session will undoubtedly bring forward unforeseen challenges and opportunities as well.

At this time of transition, it is helpful to take stock of the past year and look ahead at some of the pressing issues we expect to face in 2007.

### REFLECTING ON 2006

The biggest disappointment of 2006 was Governor Schwarzenegger's vetoes of all five of the bills sponsored by the ACLU. This package of legislation, highlighted in the last Sacramento Report (Fall 2006), addressed a range of issues, including privacy, criminal justice, sex education, and employment discrimination. Amazingly, we navigated all of the sponsored bills through the legislative process, garnering bi-partisan support in both the Assembly and Senate along the way.

The governor's vetoes on these bills came down in the last days before the constitutional deadline for gubernatorial action, after detailed negotiation sessions with the governor's policy staff. The veto messages delivered by the governor suggest the possibility that, with additional tweaks to address expressed concerns, these bills could be politically viable in 2007. We are likely to revisit them in the next session.

Also of note in 2006 was the defeat of the “death with dignity” bill, modeled after Oregon's law to allow terminally-ill patients the option to obtain a medical prescription to die on their own terms. Following a decision by the United States Supreme Court early in 2006 that established Oregon's right to set its own law in this area without the interference of the federal government, advocates for end-of-life choices were hopeful that California could become the second state in the nation to afford its residents this profoundly personal option. However, AB 651 (Berg & Levine) suffered a stinging defeat when it failed by just one vote to get out of the Senate Judiciary Committee.



This last session also brought forward an assault on immigrant communities that we have not seen since the days of Proposition 187 in the mid-1990's. A number of bills to deny access to education and emergency health care, and to involve local police in the enforcement of federal immigration laws, were introduced in the legislature. The ACLU worked side-by-side with immigrant and civil rights groups to stop the scapegoating of immigrants. As a result, most of these bills never even made it out of the first policy committee in which they were introduced.

### LOOKING AHEAD AT 2007

This first half of the new legislative session marks the first year in some time that California voters will not face a statewide election. We hold out some hope that the absence of an election can lead to a more thoughtful, and less polarizing approach to lawmaking in the State Capitol -- one that is less driven by politics and more by policy.

Legislative leaders have expressed an interest in tackling bold policy initiatives such as universal health care and criminal justice reform. After handily winning re-election, the governor is touting messages of bi-partisan cooperation, and refraining from the harsh rhetoric that marked the first couple of years of his tenure.

In this new environment, we expect to work with key legislators to introduce a package of criminal justice reform proposals that would reduce the likelihood of false convictions and build greater transparency of police misconduct. Returning will be familiar bills to require the electronic recording of interrogations of suspects in serious crimes and eyewitness identification reform. The use of evidence from informants who are already in the custody of law enforcement presents another pressing concern. Finally, a recent decision by the California Supreme Court, in *Copley Press v. Superior Court*, limiting public access to the disciplinary records of police officers reveals the need for clear statewide policy on the right of the public to know about police misconduct.

With the state facing the imminent takeover of the prison system by the federal government because of a failure to address critical issues of overcrowding, health care, and parole

backlogs, there is considerable pressure on state lawmakers to address prison reform in 2007. The ACLU will be active in efforts to bring about meaningful sentencing and parole reform that can relieve the untenable conditions in the state prison system, and to protect the constitutional rights of prisoners.

On matters of privacy and reproductive rights, we will continue to lead efforts to ensure that the use of new technologies by the government is carried out in a way that does not compromise the privacy interests of millions of Californians. Senator Joe Simitian (D-Palo Alto) has already re-introduced a package of bills to establish standards on the use of radio-frequency identification (RFID) chips in government-issued cards and documents. RFID technology poses the threat of remotely communicating personal identifying information of individuals if appropriate safeguards are not in place.

Following the veto of SB 1471 (Kuehl) last year, we expect to once again fight to protect the integrity of sexual health education in 2007. Also, recent changes to federal law threaten access to reproductive health for young women. The ACLU will be active in formulating a state policy fix to ensure that teenagers can safely obtain critical medical care.

In the area of civil and immigrant rights, 2007 is sure to be another busy year. Assembly Member Mark Leno (D-San Francisco) introduced a marriage equality bill on the day he was sworn in for the new term. The enduring battle to establish equal rights for LGBT couples in California will gain prominence once again. The ACLU will also continue its work to promote educational equity with a special focus on access to college preparatory curriculum in public high schools across the state.

With Congress poised to consider taking up comprehensive immigration reform anew at the federal level, we remain vigilant against a coordinated attack on immigrants in the state legislature. We are particularly mindful of the racial profiling implications of anti-immigrant legislation introduced by some state lawmakers in recent years. Several bills, including one that would make the mere presence of an undocumented immigrant in California a criminal trespassing violation, have already been introduced. We expect a handful of lawmakers to bring forward similar measures to take on the federal role of immigration enforcement, but we remain optimistic that a fair-minded legislature will approach immigrant issues with a respect for human dignity and the constitutional guarantees of due process and equal protection.

Be sure to visit the ACLU of Northern California's Web site “Action Center” to get updates and learn what you can do to support the ACLU's bills and protect liberties in California: [www.aclunc.org/action](http://www.aclunc.org/action). ■

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

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# DOROTHY EHRLICH: A LEGACY OF SOCIAL CHANGE

When a 27-year-old Dorothy Ehrlich was being interviewed to head the ACLU of Northern California, she was asked if she thought her youth would be a problem.

Ehrlich's response: "I'm confident that it's something that time will cure."

Though Ehrlich's answer during her interview to become executive director might have seemed slightly brushed with the hubris of youth, she clearly understood the importance of her work.

During the next 28 years, Ehrlich built one of the most effective ACLU affiliates in the country.

No civil rights struggle in California for the past three decades is absent Ehrlich's fingerprints.

From fighting against the death penalty, racial profiling, and anti-affirmative action measures, to defending reproductive rights, immigrant and youth rights, language rights, freedom of speech, and marriage equality, Ehrlich has been on the front line. She was also the driving force behind the affiliate's vigorous response to the USA PATRIOT Act and other federal erosions of civil liberties since Sept. 11, 2001.

"I have always been cognizant of my responsibility to honor the tremendous legacy of Ernest Besig," Ehrlich says, referring to the ACLU-NC's executive director of 36 years. "He stood nearly alone in having the courage to represent Fred Korematsu and challenge the internment of Japanese-Americans during World War II all the way to the U.S. Supreme Court."

Ehrlich began her civil rights work through an undergraduate internship at the California Coalition Against the Death Penalty, which was housed in the offices of the ACLU-NC on Mission Street. The internship was through a Coro Foundation program at the University of San Francisco. It was at USF that she met her husband, death penalty lawyer Gary Sowards, with whom she now has two grown children.

Soon after her internship, the ACLU-NC hired Ehrlich to help defeat Proposition 17, a 1972 measure to overturn the state Supreme Court's ruling that the death penalty was "cruel or unusual punishment." The ACLU lost that particular battle, but winning the war against the death penalty has remained a mission in Ehrlich's life. In 2006, she was honored with the Mario Cuomo Acts of Courage Award by Death Penalty Focus.

In 1973, she left the ACLU-NC to join the ACLU of Southern California as the Assistant Field Director. She eventually became the Development Director there. While in Southern California, she was also awarded a Coro Foundation Fellowship in urban affairs.

Ramona Ripston, the Southern California affiliate's executive director since 1972 and the person who hired Ehrlich, says she was "extraordinary, always." Ripston and Ehrlich have collaborated on civil rights struggles for more than 30 years.

Ehrlich moved back north to become Executive Director of the ACLU-NC in 1978.

Ripston says she was disappointed to lose her at the time, but she knew Ehrlich would be an outstanding leader.

"Dorothy has an exceptional ability to pull people together," Ripston says. "Everybody respects her." That's true both in California and nationally.

Wade Henderson, President and CEO of the Leadership Conference on Civil Rights in Washington, D.C., worked with Ehrlich 20 years ago when he was a lawyer and lobby-

ist at the ACLU's Washington national office.

"Dorothy really was one of the key affiliate directors to recognize issues of immigration reform as having national civil liberties and civil rights implications," Henderson says. "Through her leadership, the ACLU-NC became one of the most active advocates for these issues."

During her tenure at the ACLU-NC, Ehrlich developed a multi-pronged model that combines litigation, public education, lobbying, and field activism.

That strategy resulted in big civil rights victories in the face of daunting and well-funded opponents.

"She built the largest, most powerful, and one of the most respected ACLU affiliates in the country," says Eva Paterson, President and Co-founder of Equal Justice Society, a national, progressive, legal activist think-tank based in San Francisco. "She's very fierce, but she's nice."

Coming a long way from the novice days of the anti-death penalty campaign, Ehrlich formed strategic coalitions and served on the statewide steering committee that succeeded

in defeating Ward Connerly's dangerous Proposition 54 in 2003. The initiative would have banned state and local agencies from collecting or analyzing data on race or ethnicity. More recently, she led efforts against propositions 73 and 85, which would have required doctors to inform parents of unwed minors 48 hours before performing abortions.

"The worst damage to civil liberties has been done through the initiative process over the years," Ehrlich says. "Year after year, we've been challenged."

Those who know Ehrlich know that the mission of the ACLU is her life's mission. In her professional life as well as her personal life, she is surrounded by the people with whom she has worked in the trenches for that mission. They all describe her as smart, courageous, determined—and touched with grace.

"Dorothy leads an extraordinarily adversarial organization with love," says Davis Riemer, who, along with his wife, Louise Rothman-Riemer, are longtime Oakland chapter members. Riemer is also a former chair of the affiliate's Board of Directors, and he and his wife are current board members. Together Ehrlich and Riemer

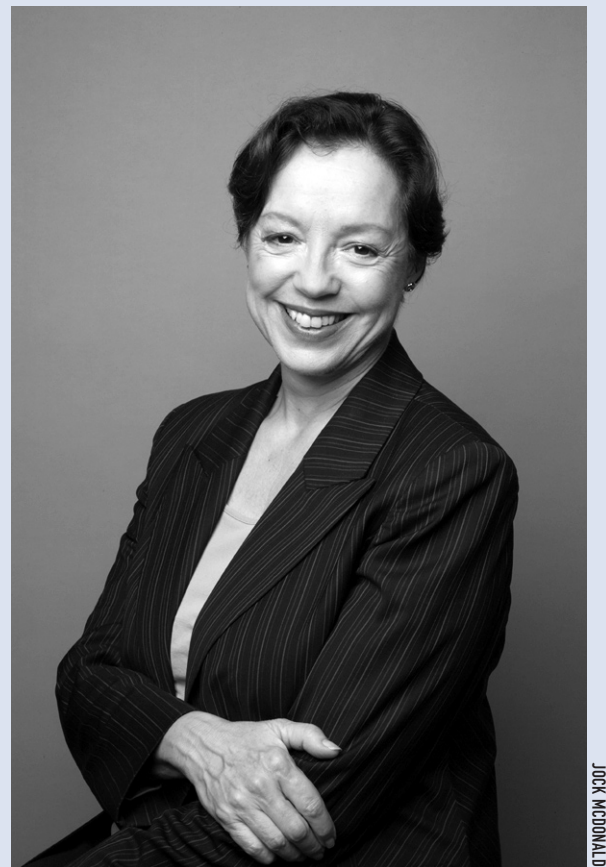
**"DOROTHY HAS  
AN EXCEPTIONAL  
ABILITY TO PULL  
PEOPLE TOGETHER.  
EVERYBODY  
RESPECTS HER."  
—RAMONA RIPSTON,  
ACLU-SC EXECUTIVE  
DIRECTOR**

**"SHE BUILT THE LARGEST,  
MOST POWERFUL,  
AND ONE OF THE MOST  
RESPECTED ACLU  
AFFILIATES IN THE  
COUNTRY."**

**—EVA PATERSON,  
PRESIDENT AND CO-  
FOUNDER OF EQUAL  
JUSTICE SOCIETY**



*Dorothy Ehrlich with Assemblymember Mark Leno at Bill of Rights Day 2006.*



*Dorothy Ehrlich*

helped pioneer face-to-face, major-donor fund-raising programs that have served as a model for affiliates around the country.

Throughout her career, Ehrlich helped establish numerous organizations and coalitions, including Death Penalty Focus, the California Coalition for Civil Rights, and the California Reproductive Rights Coalition. She was awarded a Gerbode Fellowship in 1992.

In her 28 years at the helm of the ACLU-NC, Ehrlich has facilitated tremendous growth and created programs

that were ahead of the curve. For example, the ACLU-NC authored the country's first domestic partnership ordinances. The affiliate also created a Racial Justice Project, which launched the Driving While Black or Brown campaign in 1999 and filed a successful lawsuit against the California Highway Patrol for race-based traffic stops. In 2005, Ehrlich led the opening of a satellite San Jose office with a director and a technology and civil liberties policy leader.

Ehrlich left the affiliate this fall to become the national ACLU's first Deputy Executive Director.

She says she is particularly proud of the ACLU-NC's sound financial footing and the program expansion made possible through the affiliate's fund-raising campaign, the Campaign for the Future. And she is extraordinarily proud of the staff and board she is leaving behind.

"I'm so excited and so confident to know that the organization is left in the remarkably capable hands of our new Executive Director, Maya Harris," Ehrlich says.

Harris has equal praise for her predecessor.

"Dorothy really walks the walk, not only in her work outside the organization, but also in her approach to building the organization," Harris says. "She creates an environment where everyone has a meaningful role to play and where new ideas and new leaders are not only welcomed but encouraged."

In looking forward, Ehrlich says she is heartened that she finally sees hope for reform and change on two issues that have seemed intractable: marriage equality and the death penalty.

She also says she believes that, especially given the recent election, the ACLU will reclaim the civil liberties lost in the name of the "war on terrorism."

"I forecast a long and difficult battle," she says, "but in the end, one in which we restore constitutional rights and restore checks and balances to the executive and judicial branches." ■

# NEW EXECUTIVE DIRECTOR MAYA HARRIS GIVES ACLU-NC ADDRESS

*The following is an excerpt from Maya Harris' Bill of Rights Day State of the Union speech.*

This afternoon, we can rejoice in the knowledge that our affiliate is stronger, more vibrant and more determined than ever before.

In November, we celebrated victory at the ballot box as California voters resoundingly rejected Proposition 85—the parental notification initiative that would have endangered the health of teens and required pregnant minors to tell their parents or go to court before terminating their pregnancy. It was the second time in two years that California voters were asked to curtail a woman's right to choose. Last year, we fought a nearly identical initiative—Proposition 73.

Working with our coalition partners, we beat the parental notification initiative last year. And we beat it again this year—this time, by an even larger margin of victory. Each time we win this battle for choice, we grow stronger and build a broader movement for reproductive freedom in California.

Today, we also celebrate the one-year anniversary of the opening of our San Jose office. We are an affiliate that is growing and fostering support in every corner of our vast northern California region—a region that stretches from the Central Valley all the way up to the Oregon boarder. We are doing work in distant areas with serious civil liberties challenges, but often few resources and advocates.

Let me share just a few of the many stories from this past year.

In Fresno, if you are homeless, one of the many indignities you suffered were the numerous raids carried out by the city's police and sanitation workers. You stood by as bulldozers crushed the shopping cart filled with all your personal belongings. Everything you own—clothing,

medicine, irreplaceable family photos and personal documents—was gathered up and confiscated by city officials.

In October, we filed a lawsuit to stop the city of Fresno from pursuing a policy that gave them license to seize and destroy the property of homeless, a policy that violates the constitution and punishes people simply for being poor. Just two weeks ago, the court granted a preliminary injunction enjoining the City from implementing its inhumane and unjust policy.

Earlier this year, hundreds of miles north in the city of Los Altos, high school students asked the city council to proclaim a Gay Pride Day. The council's response was to enact a rule banning any city proclamations related to sexual orientation.

Working with a diverse coalition, we helped educate the public, organize students and residents, and build support from dozens of local business owners. In a matter of weeks, the city council reversed its position and rescinded its discriminatory rule.

We are also in a small Inyo County town along the Eastern Sierras. Bishop, California, with a population of 5,000, is home to over 1,500 Native Americans. When we got wind of reports that police and school officials were racially harassing and disproportionately disciplining Native American school children, we joined forces with California Indian Legal Services to investigate and halt these practices.

And truly in the spirit of new frontiers, we plunged into cyberspace. Justin Watt, a blogger from Santa Rosa, California, came across a billboard posted by Exodus International that read: "Gay? Unhappy? [www.exodus.com](http://www.exodus.com)." Turning anger into activism, Justin decided to post his own billboard online, which read: "Straight? Unhappy? [www.gay.com](http://www.gay.com)."

Exodus threatened to sue Justin if he did not take down



Maya Harris

MICHAEL WOOLSEY

his billboard. We stepped in to protect his First Amendment right to express his own opinions through parody, and Exodus ultimately dropped its demands.

We have much to celebrate. But even in the face of these tremendous victories, we are reminded that our work is far from over.

With ACLU-sponsored bills on privacy, criminal justice, sex education, and employment discrimination vetoed by the governor during the last legislative session, we will be back in Sacramento in 2007 to fight for these and other crucial reforms.

On the national front, we also have important work ahead. People across the country cast their votes on Election Day for restoring a system of checks and balances. Now, we must demand that our newly-elected leaders, both Democrats and Republicans alike, begin restoring our lost liberties.

Together, we can—we will—preserve the freedoms that are the foundation of our democracy. ■

## HONORING DOROTHY EHRLICH AT BILL OF RIGHTS DAY CONTINUED FROM PAGE 1

said, "[Ehrlich] treated all of us as full members of the ACLU and I felt that I could call her like I could anyone else at the affiliate office."

Today, Singh is the Senior Policy Advisor at the Interfaith Alliance, and a member of the National ACLU Board, in which capacity he works with Ehrlich, who now serves as the Deputy Executive Director of the National ACLU.

Karen Korematsu, the wife of Fred Korematsu, who challenged the forced internment of Japanese Americans during World War II, was present and wrote a letter, read by her daughter Kathryn, praising Ehrlich's achievements and urging her to continue her work on a national scale.

"The Racial Justice Project is one of Dorothy's lasting legacies," spoke Wade Henderson, president and CEO of the Leadership Conference on Civil Rights. Speaking to her tenacity in bringing the Project to fruition and actualizing other achievements, Henderson added, "Dorothy

looks like Bambi, but bites like Jaws."

Robert Friedman, chairman of the Corporation for Enterprise Development, shared that when he and his family wanted to honor his father, it was Ehrlich who had the vision for the Howard A. Friedman First Amendment Education Project, a program that would promote the development of high school students as the next generation of civil libertarians.

Ehrlich was presented onstage with the Chief Justice Earl Warren Civil Liberties Award, the affiliate's highest honor. Past honorees have included members of Congress, a U.S. Supreme Court Justice and the Chairman of the NAACP.

On hand to help present the award was Anthony Romero, Executive Director of the National ACLU, who added: "My grandmother used to say, 'Tell me who you walk with, and I'll tell you who you are.' I would consider it a great honor if

one day someone said that Anthony is who he is because he had the good fortune of walking with Dorothy Ehrlich."

Not surprisingly, the litany of Ehrlich's achievements sounded as a greatest hits list for civil liberties in California. Board Chair Quinn Delaney added that "Dorothy built up the volunteer leadership of the ACLU. ... She fueled our commitment and built us into leaders." Delaney remarked that everyone was amazed at how much the affiliate had accomplished since 2001, and then brought laughter to the audience in pointing out, "You have to remember that before John Ashcroft, we already had a full agenda."

Executive Director Harris underscored, "There is no greater way to celebrate our Bill of Rights on this day than to pay tribute to the many contributions Dorothy has made in protecting and expanding them in California and across the nation." ■



PHOTOS: MICHAEL WOOLSEY

Aundré Herron, Master of Ceremonies, helped ensure the success of Bill of Rights Day with finesse and humor.



Kathryn Korematsu (left) and Karen Korematsu, family of civil rights hero Fred Korematsu.



Anthony Romero, National ACLU Executive Director, with Robert Friedman, Friedman Family Fund board member.



# HELP DEFEND CIVIL LIBERTIES AND WIN *Good Night, and Good Luck* on DVD!

The ACLU-NC is giving away a DVD of the film starring Academy Award winner George Clooney to every 20th person that signs up for ACLU-NC email.

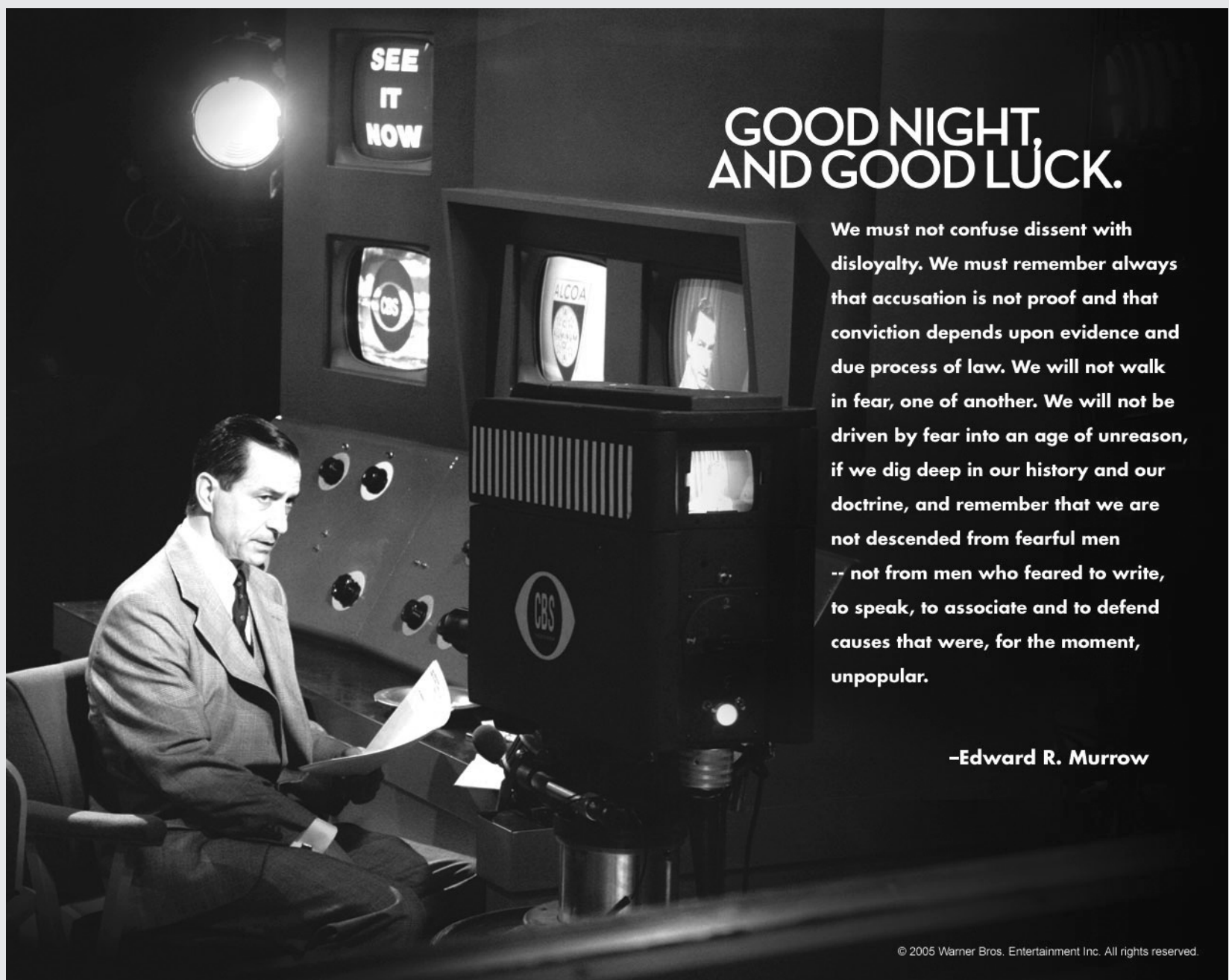
*Good Night, and Good Luck* is the story of broadcast journalist Edward R. Murrow who took a stand and challenged Senator Joseph McCarthy.

To enter the contest to win this DVD, please fill out the ACLU-NC email sign-up form on our website, [www.aclunc.org](http://www.aclunc.org).  
The ACLU-NC does not spam. We provide current information on pressing civil liberties issues.

DVDs will be mailed to winners. Entrants 17 years of age or younger must have parental consent to enter.  
Only one entry per person. No purchase necessary. Void where prohibited. Contest ends April 30, 2007.

View [www.aclunc.org/action/win\\_a\\_dvd/](http://www.aclunc.org/action/win_a_dvd/) for further contest rules.

Good luck!



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# CALIFORNIA VOTERS DEFEAT PROP 85

CONTINUED FROM PAGE 1

violence, and incest. The explosive news of a daughter's pregnancy would, quite simply, put these teens in danger.

Voters also understood that Proposition 85's cavalier solution to the problem of abusive families—sending pregnant teens to court—was punitive. Navigating through the judicial system is a daunting prospect for anyone. Imagine the plight of a scared, pregnant teen, who must locate the proper court, fill out forms, travel to the courthouse, and persuade a judge to approve an abortion. At the very least, the initiative would have caused dangerous delays in access to care, increasing the second trimester abortion rate among the thousands of teens who would have needed to go to court every year.

At worst, Proposition 85 would have brought to California the tragedies that now occur in other states with parental involvement laws on the books. Desperate teens resort to desperate acts. Some pregnant teens suffer harm on dangerous and lonely journeys to obtain medical care across borders. Some teens obtain drugs over the Internet to induce hemorrhaging. Some end pregnancies with self-induced blows or bullets. Because one of eight teenagers lives in California, those tragedies would have multiplied.

The defeat of Proposition 85 had political as well as practical benefits. California's reproductive rights movement emerged from the campaign strengthened because we added new allies to our coalition. The California Labor Federation voted to endorse "No on 85," marking the first time in America that the AFL-CIO has taken a position supporting abortion rights. This historic vote reflected both the growing clout of women in the labor movement and the extraordinary work of reproduc-

tive rights leaders, particularly ACLU-NC Organizing Director Justine Sarver. The California Teachers Association was also a critical partner in spreading the message throughout the state about the threat posed to vulnerable teens from dysfunctional homes—young people who, sadly, teachers see every day.

Also joining our longtime coalition partners were LGBT activists and leaders from communities of color. Many gay rights groups, such as Pride at Work, infused the campaign with energy and activism. Additionally, organizations such as California Latinas for Reproductive Justice and Asian Communities for Reproductive Justice played a crucial role in defeating the initiative by educating and mobilizing communities of color about the dangers the proposition posed to young women. Campus organizing also brought young people to the forefront of the campaign.

California's rejection of Proposition 85 came on a night that also saw similar reproductive rights victories across the country. In South Dakota voters rejected an abortion ban, and in Oregon voters defeated a parental notification initiative. Americans declared that they are weary of extremism and government intrusion into intimate decisions.

The country can learn from California, which for years has refused to allow ideologues to hijack the state's health policy. The state has witnessed the steepest decline in teen births in America, resulting from comprehensive sex education and access to birth control, including emergency contraception. These are real solutions to the problem of unplanned pregnancy. In insisting on pragmatic policies for the real world, California offers a model for progress in the 21st century. ■

## PROP 85 STATISTICS

- 64 "No on 85" activities organized by ACLU-NC chapters
- 50,000 door hangers labeled with polling place info
- 9 volunteer trainings around the Bay Area
- 6,296 "No on 85" voters identified
- 9,000 "No on 85" buttons distributed
- 75 volunteers at ACLU-NC Election Eve phone bank
- 60,000 ACLU-NC "No on 85" postcards mailed



Activists encouraged motorists to vote "NO on 85" before the Prop 85 legislative hearing in San Francisco.



Prop 85 volunteers in action! Clockwise from left: Tsogbig Marieann Hekimian, National ACLU Region Field Organizer (left), and Shin Inouye, Senior Legislative Communications Associate from the ACLU Washington Legislative Office; both flew in to help defeat Prop 85. Tamara Murray (left) and Laura Hahn (center) of NARAL Pro-Choice California, Mandy Benson (right) of California NOW. Amy Moy (left) and Angela Bush (right) of Planned Parenthood-Golden Gate.

## DEFEATING PROP 85: BEHIND THE SCENES

While none of us wanted to fight another parental notification initiative, the "No on 85" campaign gave the ACLU of Northern California another opportunity to expand our activist base and demonstrate the tremendous organizing abilities of our staff, activists, and chapters. Working with a diverse range of coalition partners, the ACLU-NC talked to voters to educate them about the dangers of Prop. 85 and mobilize them to vote on November 7th.

From farmer's markets to festivals, and from the Folsom Street Fair to Constitution Day, ACLU-NC activists and volunteers blanketed the region. The weekend leading up to Election Day, and on Election Day itself, hundreds of ACLU-NC volunteers participated in get-out-the-vote (GOTV) mobilizations in San Francisco, Oakland, Berkeley, and San Jose. In San Francisco alone, we identified over 6,000 "No on 85" voters and ensured they went to the polls.

The new ACLU-NC office was a beehive of activity during the "No on 85" campaign. In addition to several "No on 85" fundraisers, volunteer trainings, and phone banks, the ACLU-NC hosted the preparations for our GOTV campaign. For nearly a week, dozens of volunteers gathered in our conference rooms to put polling place information on door hangers and prepare precinct kits. Their hard work paid off when Prop. 85 was soundly defeated 54 percent NO to 46 percent YES!

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# BERKELEY'S CIVILIAN POLICE REVIEW COMMISSION UNDER FIRE

By Jeremy Chen

The Berkeley Police Association has renewed its lawsuit against the City of Berkeley's Police Review Commission, after the action was put on hold because of a California Supreme Court ruling concerning privacy rights of police officers. In the lawsuit, the Berkeley Police Association seeks to prohibit the practice of requiring police officers to respond to complaints in public hearings.

The Berkeley Police Association's current challenge to the Review Commission stems from a lawsuit filed four years ago that similarly claims that the public hearing process violated police officers' right to privacy. In 2004, the case was put on hold while it waited for a ruling in the California Supreme Court case, *Copley Press v. Superior Court*. It was eventually ruled that police officers' records could no longer be used in public complaint hearings, and the Berkeley Police Association resumed its challenge with the incorporation of the *Copley* ruling.

As a result of this ruling, all 12 police review boards in California either suspended public complaint hearings or held them in private.

The Berkeley Police Review Commission, founded in 1973, is the longest-running police review board in the country, and has been a model for the nation. If successful, the lawsuit could set a precedent that would severely limit the effectiveness of the police review process all around California.

"The Berkeley case could have a devastating impact on the civilian police review board process if it turns out the way *Copley* did," said Mark Schlosberg, ACLU Police Practices Policy Director. "For example, in Oakland, hearings have resumed, but are conducted in private."

On behalf of the Police Review Commission, the ACLU of Northern California filed a friend of the court brief in support of an open civilian police complaint process. It argues that public hearings strengthen community confidence, deter police misconduct through public dissemination of information, and clear police of wrongdoing in the public eye.

In a time of increased media exposure of police brutality, access to public hearings of the civilian review board process are needed more than ever because they provide transparency to internal police officer investigations of misconduct. Even more importantly, the ACLU feels that the strength of the Berkeley Police Review Commission can aid in the elimination of police brutality by increasing police accountability through criticism and public awareness of police misconduct that would otherwise go unreported.

Public hearings also provide an open forum where complaints and questions about law enforcement are listened to and answered. With an open forum, greater community accessibility improves public confidence in its police officers. Closing off the public hearing process would only serve to create mistrust and suspicion from the public.

However, the strongest point of contention is that the City of Berkeley is not covered by the *Copley* ruling because its Police Review Commission does not hand out or recommend actions for discipline, but rather it serves as a way for the public to evaluate the police. Otherwise, the only other way to preserve the civilian police review process would have to come from legislation.

"The only way to undo the harm to the civilian police review process in California that *Copley* inflicted, would be through affirmative legislation," said Schlosberg.

With support from community organizations such as Copwatch, People United for a Better Oakland (PUEBLO), Bay Area Police Watch and the ACLU-NC, the City of Berkeley's Police Review Commission awaits its fate. The *Copley* case, along with the Berkeley Police Association's lawsuit, if successful, could mark a domino effect of the dismantling of the strongest tools with which to enforce police accountability. ■

# ACLU-NC FIGHTS SAN FRANCISCO SURVEILLANCE CAMERA EXPANSION

By Jeremy Chen

ACLU of Northern California activists, joined by allies from local civil rights groups, packed a San Francisco Police Commission meeting last January to urge them to vote against the installation of 25 additional video surveillance cameras in eight locations around the city.

In less than two years, a "pilot program" of public surveillance has grown from two cameras to over 30 cameras, with funds budgeted this year for the additional 25 cameras, and plans for even more cameras in the years ahead.

The Police Commission approved the camera expansion despite evidence that crime has actually gone up in more than half the current San Francisco camera locations. Additionally, studies show that cameras do not prevent or reduce crime, and



it has been found that the cameras stifle free speech and are used to unfairly target women and people of color.

But, in large part due to the work of the ACLU-NC and its allies, the Commission started to take notice of the ineffective and intrusive nature of the cameras. Members extensively questioned city representatives about the efficacy of the camera program and whether \$275,000 of taxpayer funds might be better spent on other programs such as community policing and improved lighting.

"We fully understand the need to respond to the very real problem of crime, but video surveillance is not the answer," said Mark Schlosberg, ACLU-NC Police Practices Policy Director. "Limited public safety dollars should be spent on proven programs such as improved lighting and foot patrols, rather than on an ineffective and invasive surveillance system."

The Police Commission also mandated a comprehensive review of all existing and newly-approved camera locations within six months. This is a significant victory, since there has not yet been any review or evaluation of the existing cameras. Some Commissioners suggested that if the cameras were not effective in reducing crime, they should be removed.

The Commission further included an amendment that requires the cameras to be turned off during political demonstrations and several commissioners also cited the potential targeting of undocumented immigrants as a reason to oppose the cameras filming political protests.

"Once you are tracked by a video surveillance camera and your private information is collected, you don't know how it will be used or abused," said Nicole Ozer, Technology and Civil Liberties Policy Director of the ACLU-NC. "We need to work together to find and fund real solutions that will make our communities safer while respecting our civil rights."

For more information, please visit [http://aclunc.org/issues/technology/say\\_no\\_to\\_video\\_surveillance.shtml](http://aclunc.org/issues/technology/say_no_to_video_surveillance.shtml), and look for our forthcoming report: "I Spy With My Big Eye: Video Surveillance in California." ■

# ACLU-NC HOLDS SAN JOSE POLICE DEPARTMENT ACCOUNTABLE

By Sanjeev Bery

Government transparency and individual freedom go hand-in-hand. When city hall is open and accountable to the public, it is much more likely to stand up for the civil liberties of its constituents.

San Jose, the largest city in Northern California, may soon be taking a big step in this direction. For years, the San Jose Police Department has denied public access to key police records. Now, a city taskforce may be considering alternatives.

Why is this important? The records in question document how police officers treat members of the community and respond to calls for help. Without access to these documents, it is difficult for concerned community members to ensure that local law enforcement is incorporating civil liberties concerns into its day-to-day operations.

One specific example is the SJPD's use of Taser stun guns. After facing significant community criticism for its lax rules, the department put new Taser training guidelines in place last year. If the San Jose community can't access the very police records that document Taser use, there is no way to independently verify that the new training guidelines are being followed.

Fortunately, a team of hard-working community members is busy drafting new reforms to make San Jose city government more accountable to the public. These community members are part of the Sunshine Reform Task Force—an official body whose recommendations will soon be considered by the city council.

The Task Force has wide-ranging concerns about local gov-

ernment transparency. Their agenda includes everything from city budgets to public records. And in the weeks ahead, the SJPD's records policies will also be subject to close scrutiny.

The specific police records in question are use-of-force and incident reports. These reports are written by police officers after using force or in related situations. While some sensitive information may be kept confidential, the SJPD has taken this too far. Government secrecy should be the exception—not the rule.

The SJPD currently uses an overbroad interpretation of the California Public Records Act to justify keeping these records secret. The department isn't required by law to classify these documents—it chooses to do so.

Other police departments aren't nearly as secretive. The San Francisco and Oakland police departments are both examples of law enforcement agencies that are much more open with the public. The Berkeley Police Department goes even further. It has an explicit policy of openness with the public.

Law enforcement agencies depend on public trust to do their jobs effectively. Without community support, a police department can't carry out its mission of maintaining public safety. As long as the SJPD keeps these documents secret, trust in San Jose law enforcement will be undermined.

The Sunshine Reform Task Force will be considering the question of police records in the weeks ahead. Task Force members need to hear from you. Please visit [www.aclunc.org/sjpd](http://www.aclunc.org/sjpd) to email the Task Force today. ■

**LAW ENFORCEMENT AGENCIES DEPEND ON PUBLIC TRUST TO DO THEIR JOBS EFFECTIVELY. AS LONG AS THE SJPD KEEPS THESE DOCUMENTS SECRET, TRUST IN SAN JOSE LAW ENFORCEMENT WILL BE UNDERMINED.**



# NORTHERN CALIFORNIA CHAPTERS MAKE THE ISSUES HIT HOME

By Mary Lunetta

“Change comes from power, and power comes from organization,” Saul Alinsky once said. “In order to act, people must get together.” This isn’t true because one of the greatest community organizers said it—it’s true because our Northern California chapters and clubs made it true!

Proposition 85 was defeated and the great harm this proposition would have inevitably caused to young women all over California was successfully curtailed because of the work of our chapters and the dedicated members of the ACLU of Northern California.

The first half of the campaign was designed to create a domino effect of one-on-one communication throughout the state to raise awareness about, and money for, the campaign by promoting and recruiting volunteers to hold house parties. The Paul Robeson chapter in Oakland held volunteer trainings and Ashley Morris of the Berkeley ACLU club, with Mills College Choice USA club as co-host, organized multiple campus events and house parties. Elizabeth Zitrin of the San Francisco chapter raised hundreds of dollars at her house party; and Yolo County, San Joaquin County and Sonoma County chapters also organized similar events in their areas.

The money raised at those events went to fund the second half of the campaign, to use our groundswell of support against this dangerous initiative to urge the rest of the state through large-scale events and television commercials to get out on Election Day and vote no on 85. ACLU-NC Organiz-

ing Director Justine Sarver spoke about Proposition 85 at the Mid-Peninsula Chapter’s annual meeting; Santa Clara University Law School’s ACLU club ran voter drives; Fresno County’s re-emerging chapter organized a large downtown visibility event; and our Mt. Diablo and Stanislaus chapters incorporated the “No on 85” message at several local college events.

Almost all the chapters tabled with “No on 85” materials at various community events, and several chapters included these materials in their membership mailings, thereby educating and encouraging thousands of ACLU members to vote “No” on Election Day.

We were confident that we would succeed in defeating Proposition 85 if there were high voter turn outs in traditionally progressive counties, but if voter turn out from our base was low, then so were our chances at victory. As a result, our campaign was very much dependent upon people-orientated, grassroots work. Our phone banks and precinct walks were part of the reason why San Francisco, Alameda, and Contra Costa Counties posted the highest voter turn outs among California’s 10 largest counties!

Unlike our opponents with deep pockets, the most valuable resources we had in this campaign were our membership base, our chapters, and our many wonderful volunteers. And while our opponents’ money will eventually run out, our grassroots allies will only grow and continue the fight to protect a woman’s right to choose. ■

## CHAPTER EVENT

THE SAN JOAQUIN COUNTY  
CHAPTER PRESENTS:



Monthly showings of  
*The ACLU Freedom Files*

First Wednesday of each  
month through May 2007

7:30 p.m.

University of the Pacific Campus  
Wendell Phillips Center, Room 140

All are welcome!

Contact John Schick for more  
information: [jcschick@earthlink.net](mailto:jcschick@earthlink.net)

## ACLU-NC CHAPTER MEETING SCHEDULE

CONTACT YOUR LOCAL ACLU CHAPTER AND GET INVOLVED!

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

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

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

**MID-PENINSULA CHAPTER MEETING:** Third Monday of each month, from 7 – 9 p.m., in the Community Activities Building, 1400 Roosevelt Avenue, Redwood City. Chapter mailing address is: PO Box 60825, Palo Alto, CA 94306. Contact Harry Anisgard for more information: (650) 856-9186.

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

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

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

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

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

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

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

**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 [info@aclusantacruz.org](mailto:info@aclusantacruz.org) or visit [www.aclusantacruz.org](http://www.aclusantacruz.org).

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

**STANISLAUS COUNTY CHAPTER MEETING:** Third Wednesday of every month from 7 – 9:30 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](mailto:stanaclu@sbcglobal.net).

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

## NEW CHAPTERS ORGANIZING

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

**GREATER FRESNO CHAPTER:** Contact Donna Hardina for more information: [donnahardina@earthlink.net](mailto:donnahardina@earthlink.net) or (559) 275-8141.

**SACRAMENTO VALLEY CHAPTER:** Contact Shayna Gelender for more information: [sgelender@aclunc.org](mailto:sgelender@aclunc.org) or (415) 621-2493 x384.

**SHASTA AND TRINITY COUNTIES CHAPTER:** Contact Greg Winters for more information: [gwwintersesq@sbcglobal.net](mailto:gwwintersesq@sbcglobal.net).

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

## CAMPUS CLUBS

**BERKELEY CAMPUS ACLU:** Every Tuesday from 7 – 8 p.m. at 121 Wheeler Hall. For more information, visit [www.berkeleyaclu.com](http://www.berkeleyaclu.com) or contact Ashley Morris at [ashmo@berkeley.edu](mailto:ashmo@berkeley.edu).

**DAVIS CAMPUS ACLU:** Contact Andrew Peake for more information: [ajpeake@ucdavis.edu](mailto:ajpeake@ucdavis.edu). Santa Clara University Law: Contact Allison Hendrix for more information: [hendrixallison@gmail.com](mailto:hendrixallison@gmail.com).

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

HOW FREQUENT ARE WRONGFUL CONVICTIONS AND DEATH SENTENCES BASED ON INFORMANT TESTIMONY?

False testimony by informants is the number one cause of wrongful convictions in death penalty cases. Northwestern University Law School’s Center on Wrongful Convictions reports that 45.9 percent of documented wrongful convictions in death penalty cases are the result of false testimony by informant witnesses. Moreover, a 2004 San Francisco Magazine study estimates that 20 percent of all wrongful convictions in California were the result of false informant testimony.

WHY IS INFORMANT TESTIMONY SUCH A PROBLEM?

The incentives for lying are clear: informants in criminal cases are given substantial benefits for their testimony, including reduced or dismissed charges, lenient sentencing, preferential placement in custody, and even cash and goods. Informants have had serious criminal charges dismissed, including murder charges carrying a possible death sentence, a practice that one scholar described as “trading murders for murders.” Other informants have been paid tens of thousands of dollars for their testimony.

Some California police departments even maintain a “three-arrest” policy under which informants must generate three arrests or warrants before they can be rewarded. This policy encourages fabrication by informants who lack sufficient information.

Further, it’s easy to lie: informants may simply exaggerate or change some of the facts, creating a false story that seems to fit the evidence. An informant’s lies



Natasha Minsker

# ASK THE EXPERTS! THE USE AND ABUSE OF INFORMANT WITNESSES

The latest report of the California Commission on the Fair Administration of Justice focuses on the risks of wrongful convictions and death sentences based on false testimony by informant witnesses. Natasha Minsker, Death Penalty Policy Director, discusses the problems with informants and what can be done to prevent their misuse.

may turn the get-away driver into the shooter, or make a remorseful 19-year-old who panicked into a cold, calculating killer who brags about the crime. In death penalty cases, these kinds of lies become the evidence for special circumstances and aggravating factors, making people eligible for the death penalty when they legally are not and making jurors more likely to vote for death when they would otherwise choose life. Thus, these kinds of “small” lies can make the difference between life and death.

Informants can get away with these lies in part because the system is so one-sided and unregulated. Prosecutors have virtually unlimited discretion to offer immunity, a plea to reduced charges, lenient sentencing or even cash to a witness with little or no oversight from the judge. Defense attorneys cannot compensate or offer leniency to witnesses whose testimony might show that their client is innocent. Although prosecutors could, they never do. Prosecutors generally refuse to even allow defense attorneys to interview informants.

Much informant use occurs at the “street level.” Law enforcement officers routinely make deals with people they arrest, without ever bringing the case to the attention of the district attorney or the court. Indeed, the Santa Cruz County Sheriff’s Department explicitly encourages

its officers not to “book” or arrest informants at all to avoid the involvement of attorneys or judges.

ARE THERE OTHER REASONS WE SHOULD BE CONCERNED ABOUT THE USE OF INFORMANT WITNESSES?

Informants are often given a “get-out-of-jail-free” card, with law enforcement turning a blind eye as they commit new crimes in the community. Most often, informants continue to engage in criminal activity in low-income, communities of color—areas that are most in need of law enforcement protection.

Consider two recent examples. In San Francisco, a long-time

confidential informant admits he sold a gun to the man recently convicted of murdering a police officer, allegedly with the very gun the informant provided. In Oakland, a defendant charged with kidnapping, and pimping and pandering underage girls raised as a defense that he was acting as a DEA informant. The DEA acknowledged that they knew of his activities and allowed him to continue to “maintain his cover.”

WHAT CHANGES WOULD HELP PREVENT WRONGFUL CONVICTIONS AND DEATH SENTENCES BASED ON INFORMANTS?

Generally, we need to level the playing field and shine a light on the use of informants. The California Commission on the Fair Administration of Justice specifically recommends the following:

- The legislature should require corroboration of all informant testimony, including testimony about special circumstances or aggravating factors in death penalty cases. Jurors should be instructed that they cannot rely on any testimony from an in-custody informant unless it has been corroborated by a non-informant source.
- All agreements with informants should be in writing, detailing exactly what benefits the informant will receive for truthful testimony. These agreements must be provided to the court and the defense.
- District attorney offices should adopt strict policies on informant use. These policies should require, among other things, that all conversations with informants are electronically recorded and that supervisors must give their approval before an informant is used in court.
- Additional training should be provided to law enforcement, judges, and attorneys on the risks of wrongful conviction and death sentences based on informant testimony.

Additional reforms that the ACLU-NC has called for include:

- Defense attorneys should be given access to informants before trial, allowing attorneys to question the informant and verify the information provided.
- Judges should be required to hold a hearing to determine if the witness is reliable before trial and to review and approve all “compensation packages” to informants.
- Law enforcement should be required to disclose to the public how they use informants and the costs and benefits of doing so, to allow an assessment of whether using criminal informants makes our communities safer or more dangerous. ■

Natasha Minsker is director of death penalty policy for the ACLU of Northern California. To learn more about the death penalty project, visit [www.aclunc.org/deathpenalty](http://www.aclunc.org/deathpenalty).

## MAILING PREFERENCES

To Our Members:

Mailings to our members and the general public provide opportunities to describe complicated legal and political issues in ways not possible in other media and to describe strategies we plan to use for future actions. They enable us to explain, in detail, the benefits and provisions of the Constitution and the Bill of Rights, the ways our rights can be protected in today’s world, and the costs of preserving those rights. We use the mail to inform people of the importance of our legal work and to solicit funds that enable us to continue our litigation, public education and legislative lobbying.

Sometimes, as part of our program to find and recruit members, we exchange or rent our list of members’ names to like-minded organizations and publications. We do this so that we will be able to send our membership letters to their lists.

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 exchanges 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 or-

ganization 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.

While mailings—under strict privacy guidelines—form the basis of our new member acquisition program, and are key to our growth, we understand some members do not wish to receive solicitations from other groups and we gladly honor requests from our members to be removed from the process.

If you do not wish to receive materials from other organizations, please complete this coupon and send it to:

ACLU-NC Membership Department  
39 Drumm Street  
San Francisco, CA 94111

☐ I prefer not to receive materials from other organizations. Please eliminate my name from membership exchange/rental lists.

Member # \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_ Zip \_\_\_\_\_