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#PowerThe14th

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CHANGING LAWS TO HOLD POLICE ACCOUNTABLE

By Leslie Fulbright

California's laws are inadequate to hold police officers accountable for unjustified use of force. Last year, police in our state shot and killed 162 people. Just recently, we've seen the killings of three unarmed Black men. Stephon Clark was fatally shot by Sacramento police in March. Diante Yarber was killed by Barstow police in April. And Ronell Foster was killed by Vallejo police in February. Similar circumstances. Renewed outrage. It's past time for things to change.

Officers who kill people are rarely held accountable and are seldom even disciplined. There is little recourse for victims of police violence and virtually no incentive for officers and departments to change their policies and behavior.

The ACLU is trying to fix that. The ACLU of California Center for Advocacy & Policy is sponsoring two bills that address police misconduct and use of force. One would make police department investigations into officer



Photo by Justin Sullivan/Getty Images

misconduct and use of force more transparent, and the other would change the standard for deadly use of force.

The ACLU is also expanding in Sacramento, the Central Valley, and Kern County to address a variety of issues including police brutality. Our plans to increase our capacity in Sacramento were underway before the Clark killing, but the shooting reinforces the need for a greater presence.

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ACLU FIGHTS TRUMP'S UNCONSTITUTIONAL MOVE TO END TEMPORARY PROTECTED STATUS

Since taking office, President Donald Trump has announced his plans to end Temporary Protected Status (TPS) for people from El Salvador, Haiti, Nicaragua, Sudan and Nepal, saying they must leave the U.S. within months or face deportation.

As with the Muslim ban, the president's discriminatory motive for ending TPS was confirmed when he made vulgar comments about the home countries of some of the immigrants who have protected status. Earlier this year, during a negotiation over the fate of people who

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Thank you for generously supporting the ACLU and for taking action.

ON ITS 150TH ANNIVERSARY: POWER THE 14TH

In an effort to protect the rights of people recently emancipated from slavery, and the rights of all people, the 14th Amendment was ratified on July 9, 1868.

To commemorate the 150th anniversary of the 14th Amendment, the ACLU of Northern California is launching **#Powerthe14th**. The campaign has two goals: first, to communicate that the origins of many of our cherished rights lie in the struggle to abolish slavery, and second, to encourage everyone in our community to be the power that protects the 14th Amendment today.

CITIZENSHIP, DUE PROCESS AND EQUAL PROTECTION RIGHTS

The 14th Amendment consists of five sections. Section 1 is most relevant to civil liberties and it accomplishes four major things: 1) it guarantees citizenship to all people born on U.S. soil, 2) it requires states to respect the rights of citizens, 3) it requires states to provide due process under the law for every person, including non-citizens, and 4) it introduces the words “equal protection of the law” into the Constitution and applies it to all persons.

The 14th Amendment overturned the U.S. Supreme Court’s infamous 1857 Dred Scott decision, which declared that free Blacks were not citizens. And it broke from earlier Supreme

Court decisions that the Bill of Rights did not apply to the states.

RECONSTRUCTION BEFORE REPRESSION

For nearly a decade after the abolition of slavery, the period of Reconstruction led to rapid gains in civil rights and economic opportunity for, and by, African Americans. Three constitutional amendments were pillars of that progress: the 13th abolished slavery, the 14th provides equal protection, and the 15th protects the right to vote without discrimination based on race.

African Americans voted in large numbers, and by 1879, at least 15 percent of all Southern elected officials were Black. African Americans

established schools, churches, civic organizations, and businesses.

But then, a string of Supreme Court cases quickly narrowed the scope and the application of the 14th Amendment.

In 1883, the Supreme Court struck down the 1875 Civil Rights Act passed by Congress, saying that the 14th Amendment only gave Congress and courts the power to regulate government action, and not the conduct of private individuals or businesses.

In 1896, the Supreme Court went even further. The notorious 1896 *Plessy v. Ferguson* decision validated “separate but equal” segregation and legitimized Jim Crow laws. This legalized system of discrimination affected African Americans as well as

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OF NORTHERN CALIFORNIA

For more information about the ACLU,
call (415) 621-2493 or visit www.aclunc.org
ADDRESS CHANGES: [GIVING@ACLUNC.ORG](mailto:giving@aclunc.org)

Magan Pritam Ray	CHAIR
Abdi Soltani	EXECUTIVE DIRECTOR
Candice Francis	EDITOR-IN-CHIEF
Gigi Harney	MANAGING EDITOR & DESIGNER
Jessie Seyfer	PROOFREADER

39 Drumm Street, San Francisco, CA 94111
(415) 621-2493 | EDITOR@ACLUNC.ORG

#POWERTHE
14TH

ALL PERSONS BORN OR NATURALIZED IN THE
UNITED STATES AND SUBJECT TO THE JURISDICTION
THEREOF, ARE CITIZENS OF THE UNITED STATES AND
OF THE STATE WHEREIN THEY RESIDE. NO STATE
SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE
THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED
STATES; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY,
WITHOUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION
THE EQUAL PROTECTION OF THE LAWS. **150 YEARS OF THE 14TH AMENDMENT**

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other people of color who faced racially discriminatory laws.

All Southern states, and most in the North and West, passed laws that discriminated against African Americans and other people of color, locking them into second-class economic and social status. Terror campaigns of mob violence, bombings, and lynchings reinforced *de jure* discrimination.

CITIZEN AND NON-CITIZEN ALIKE

Even during the period of Jim Crow, there were early cases where the 14th Amendment prevailed on the side of equality. Two of these cases originated in San Francisco.

The first addressed citizenship. San Francisco native Wong Kim Ark, the son of Chinese immigrants, tested the 14th Amendment's citizenship provision, arguing that an immigration official wrongly claimed Wong was not a citizen because his parents were barred from naturalizing due to the Chinese Exclusion Act. In 1898, the Supreme Court agreed with Wong.

The second addressed equal protection. In 1883, the Supreme Court ruled in favor of Lee Yick, a Chinese immigrant, who argued that the Equal Protection clause barred discriminatory enforcement of a San Francisco laundry ordinance that unjustly targeted people of Chinese descent. This was the first time the Court applied the Equal Protection clause to a *person* who was not a citizen.

THE FUTURE GROWTH OF LIBERTY

Since its founding in 1920, the ACLU's century of protecting civil liberties coincides with the resurgence of the 14th Amendment. One of the earliest victories was an ACLU case in the Supreme Court in 1925, *Gitlow v. New York*, which ruled that the 14th Amendment protected and applied the First Amendment protections of speech to actions by states.

Civil rights leaders in the 1950s and 1960s successfully sought enforcement of the 14th Amendment. In 1954, in a case brought by the NAACP, which the ACLU supported, the Supreme Court repudiated the *Plessy* decision, unanimously ruling in *Brown v. Board of Education* that "separate but equal" schools violated the Equal Protection clause.

Subsequent ACLU cases also relied on the

80 WORDS THAT MATTER: *Section 1* *of the 14th Amendment*

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;


nor shall any State deprive any person of life, liberty, or property, without due process of law;

nor deny to any person within its jurisdiction the equal protection of the laws.

14th Amendment: *Gideon v. Wainwright* (1963) mandating legal counsel for the indigent, *Griswold v. Connecticut* (1965) safeguarding access to contraception, *Loving v. Virginia* (1967) protecting inter-racial marriage, and *Lawrence v. Texas* (2003) decriminalizing same-sex intimacy.

BE THE POWER BEHIND THE 14TH AMENDMENT

Just as happened at the end of Reconstruction, the policies of the Trump administration threaten to turn back the clock on the 14th Amendment's promise of equal protection under the law for all persons. From police and criminal justice policies that violate equal protection, to the Muslim Ban, to attacks on voting rights, the fundamental rights protected by the 14th Amendment and the Constitution are under attack.

Abolitionist Frederick Douglass wrote, "The law on the side of freedom is of great advantage only when there is power to make that law respected." Today, you are that power. 

HOW CAN YOU BE THE POWER THAT PROTECTS THE 14TH AMENDMENT?

Exercise your First Amendment rights at three levels:

- 1) Ensure that all persons know their rights under the Constitution and that all citizens register and vote on the side of freedom
- 2) Press local and state governments to advance equal protection in our laws, both here in California and elsewhere, and
- 3) Hold Congress and the federal government accountable to the people.

CONFERENCE AND LOBBY DAY 2018: THE FUTURE IS OURS TO BUILD

By Brady Hirsch


The ACLU of California's annual Conference and Lobby Day was held in Sacramento from April 8-9 with the theme "The Future is Ours to Build." We had two main legislative goals: abolish California's predatory money bail system and end the epidemic of unaccountable police violence, especially against people of color.

Hundreds of ACLU supporters gathered from across California. On Sunday, organizers and experts taught the attendees skills to build grassroots power and lobby their representatives. Packed into workshops spread across three floors, people spent the first half of the day on how to fight transphobia, disentangle ICE (Immigration and Customs Enforcement) from local law enforcement, and conduct voter outreach for underrepresented communities. In the afternoon, attendees learned about our campaign to hold District Attorneys accountable.

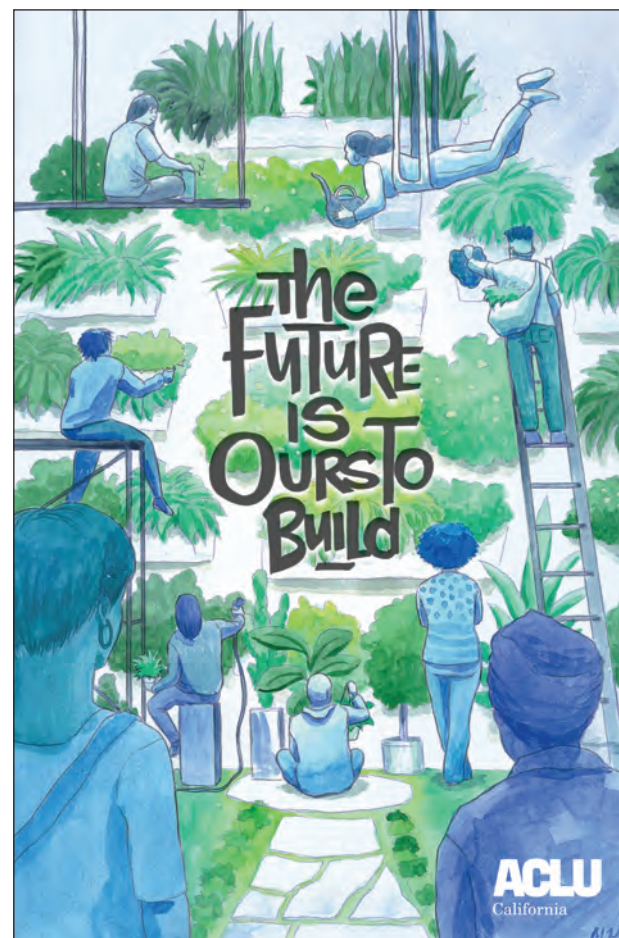
On Monday, hundreds of people marched to the state capitol chanting, "hey-hey, ho-ho/money bail has got to go," while passing block after block of bail bond outlets. Fueled by optimism and the energy of activism, a wave of sky blue ACLU T-shirts engulfed the sidewalks.

Speaking on the front steps of the Capitol, politicians and leaders from organizations including PICO California, Black Lives Matter, and Indivisible shared their stories and underscored the need for empathy and urgency: "Our black and brown communities have been fighting for

justice for decades, for centuries," said Jiggy Athilingam, co-founder of Indivisible CA: StateStrong. "For our communities of color, the fight for justice is a fight for families and for the fundamental right to live and survive."

Once the speeches were complete, lobbying visits began. Buoyed by the past two days, people visited their legislator's offices and spoke truth to power, calling on their representatives to join them in building a more just California. 

Brady Hirsch is a Communications Associate at the ACLU of Northern California.



Artwork by Robert Liu Trujillo

HUNDREDS OF PEOPLE
MARCHED TO THE STATE
CAPITOL CHANTING
"HEY-HEY, HO-HO/MONEY
BAIL HAS GOT TO GO,"
WHILE PASSING BLOCK
AFTER BLOCK OF BAIL
BOND OUTLETS.

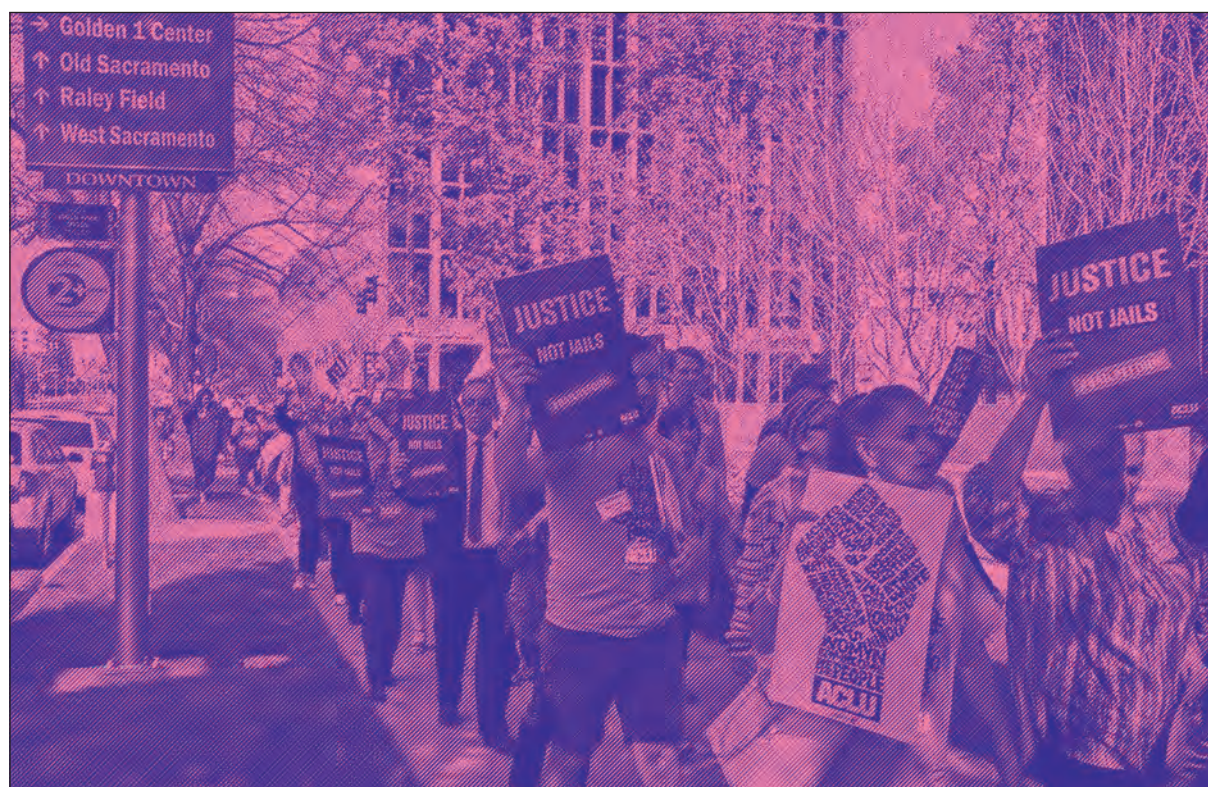


Photo by Robert Adler Photography

LEGISLATIVE UPDATE

By Natasha Minsker

In addition to working on state legislation to increase police transparency and accountability (page 1), the ACLU of California Center for Advocacy & Policy is also working on several other bills to make sure the rights of all Californians are respected, protected, and upheld. Here are just a few of the other bills we're working on this year:

CRIMINAL JUSTICE

Bail Reform: Every year in California, thousands of people are jailed while they await trial simply because they can't afford to post bail. When someone is unable to pay the total bail amount up front, they must make an impossible choice: sit in jail while their case moves forward, plead guilty, or pay a bail bonds company a non-refundable fee to get out—all this even if they are innocent. SB 10 (Hertzberg) will help fix that and put freedom and justice within reach for more Californians.

Eyewitness Identification Reform:

Wrongful convictions are one of the most devastating blights plaguing our justice system. They negatively impact people wrongly convicted, survivors who turn to our legal system seeking justice, and everyone who relies on this system to ensure overall community safety. By establishing long-overdue best practices for eyewitness identification, SB 923 (Weiner) will help protect the integrity of our justice system, and promote the safety and wellbeing of our communities.


EDUCATION

Student Discipline & Willful Defiance: All students have a right to a quality education. But far too many students are pushed out of California classrooms every year because of disruption/defiance suspensions, including for minor misbehavior like dancing, breaking the dress code, or not paying attention in class. Students with disabilities and students of color are punished at alarmingly disparate rates. SB 607 (Skinner) will encourage schools to keep students in the classroom by eliminating the use of suspension and expulsion for minor misbehavior covered under the disruption/defiance category for K-12 students.

POLICE PRACTICES

Community Control Over Police Use of Surveillance Technology: Every day, local law enforcement secretly acquires and uses surveillance technologies in cities and counties across California. We know from experience that these technologies put people at risk — especially people of color, immigrants, and activists, who are more likely to be hassled

by police and targeted by the federal government. Building off successful local movements in Oakland, Davis, and Santa Clara County, we are working to pass SB 1186 (Hill). This bill will restore community control by ensuring transparency, oversight, and accountability over when police can acquire and use surveillance technology.

Police Militarization: Our neighborhoods are not warzones, and police officers should not be treating us like wartime enemies. But every year, billions of dollars' worth of funding and military equipment flows from the federal government to state and local police departments. Local police have effectively been stockpiling wartime arsenals, with low-income people and people of color bearing the brunt of this militarization over the years. AB 3131 (Gloria) will ensure that Californians have a say over law enforcement agencies' decisions to acquire military equipment by requiring public hearings before acquisition. 

Natasha Minsker is Director of the ACLU of California's Center for Advocacy and Policy.



ACLU supporters taking action in Sacramento.

Photo by Robert Adler Photography

LEGAL

VOTING RIGHTS ♦ HOMELESS RIGHTS ♦ IMMIGRANTS' RIGHTS

ASIAN AMERICANS ADVANCING JUSTICE V. ALEX PADILLA

Voting Rights

Voting is a precious civil right. California law dictates that the state minimize obstacles to voting faced by limited English proficient voters.

In December of 2017, California's Secretary of State Alex Padilla sent a directive to California counties that lets some jurisdictions off the hook for providing translated election materials—a move that would improperly deprive tens of thousands of California voters of their rights. Speakers of 34 different languages are impacted, including voters who speak Spanish, Farsi, Arabic, Japanese, and Russian.

The ACLU Foundation of Northern California and coalition partners filed suit against Padilla this spring.

“Regardless of the language they speak, U.S. citizens have a right to participate fully and equally in our elections,” said Linda Lye, a Senior Staff Attorney with the ACLU Foundation of Northern California.

“We hope a judge will help us avoid a widespread violation of civil rights by correcting this injustice by the November election.”

SACRAMENTO REGIONAL COALITION TO END HOMELESSNESS V. SACRAMENTO

Anti-Solicitation Ordinance

Nobody should be criminalized for the simple act of asking for help. This April, the ACLU Foundation of Northern California sued the City of Sacramento for enacting a plainly unconstitutional ordinance that makes panhandling illegal across broad swaths of the city.

The ordinance violates the First Amendment by outlawing speech based purely on content, restricting people's speech in numerous public areas—including on medians, near shopping center driveways, and within 30 feet of public transit stops, financial institutions, and ATMs. Numerous courts across the country have held that similar ordinances are unlawful.

Although the law is styled as an “aggressive and intrusive solicitation” ordinance, it criminalizes purely passive activity such as sitting peacefully on the sidewalk with a sign or a donation cup. People who violate the ordinance multiple times can be charged with a misdemeanor—punishable by a fine of up to \$1,000, six months in jail, or both.

“We’ve asked a federal judge to immediately halt enforcement of this ordinance,” said Abre’ Conner, a Staff Attorney with the ACLU Foundation of Northern California. “Whether you’re carrying a protest sign or a donation sign, the government does not have the right to punish you for the content of your speech.”

ALEMAN GONZALEZ V. SESSIONS

Immigration Detention for Asylum Seekers

In March, the ACLU Foundations of Northern California and Southern California filed a class action lawsuit against the federal government on behalf of two Bay Area fathers who had been detained for over six months at a detention facility in Richmond, Cal.

Plaintiffs Esteban Aleman Gonzalez of Antioch and Jose Gutierrez Sanchez of San Lorenzo were arrested by Immigration & Customs Enforcement (ICE) officers in the Bay Area in the fall of 2017. They are seeking protection in the United States, and asylum officers with the Department of Homeland Security have determined that both men have a reasonable fear of persecution or torture if deported. Because of this determination, the federal government does not have the authority to deport them.

Nevertheless, the government has kept them in detention and refused to provide bond hearings. Both Aleman Gonzalez and Gutierrez Sanchez have young U.S. citizen children and are the primary providers for their families.



The ACLU Foundation of Northern California sued the City of Sacramento for enacting a plainly unconstitutional ordinance that makes panhandling illegal, violating the First Amendment.

Pictured: *SRCEH v. Sacramento* plaintiff James "Faygo" Clark.

Image a video still by Bethany Woolman

UPDATES

PRIVACY RIGHTS ♦ THE MUSLIM BAN ♦ LGBTQ RIGHTS

“Our clients are being held in a cruel and unnecessary limbo,” said Vasudha Talla, a Staff Attorney with the ACLU Foundation of Northern California. “The recent Supreme Court ruling in *Jennings v. Rodriguez* makes clear that the federal laws at issue here must be interpreted to require a hearing in cases of prolonged incarceration.”

Another of the ACLU Foundation of Northern California’s important cases on immigration detention, *Preap v. Johnson*, is now before the U.S. Supreme Court. The ACLU will file briefs to the court this summer. In 2017, the federal government appealed a Ninth Circuit ruling in the case that agreed with the ACLU’s position that mandatory detention is allowed only in limited circumstances related to serious crimes.

PEOPLE V. BUZA

Mandatory DNA Collection

The ACLU of Northern California has long fought a California law that requires every person arrested for a felony—including simple drug possession—to provide a DNA sample that is then stored in a criminal database accessible to local, state, and national law enforcement agencies.

In 2013, the ACLU Foundation of Northern California filed an amicus brief in the case of Mark Buza, an arson suspect who was forced to provide a sample of his DNA. In 2014, the California Court of Appeal ruled that mandatory DNA collection of arrestees indeed violates the California Constitution.

The California Supreme Court ruled against Buza this April. “The court was looking very narrowly at the case before it and was careful to avoid answering questions that were not specifically raised by Mr. Buza’s situation,” said Shilpi Agarwal, a Staff Attorney at the ACLU Foundation of

Northern California. “The ACLU Foundation of Northern California will continue to fight these types of laws.”

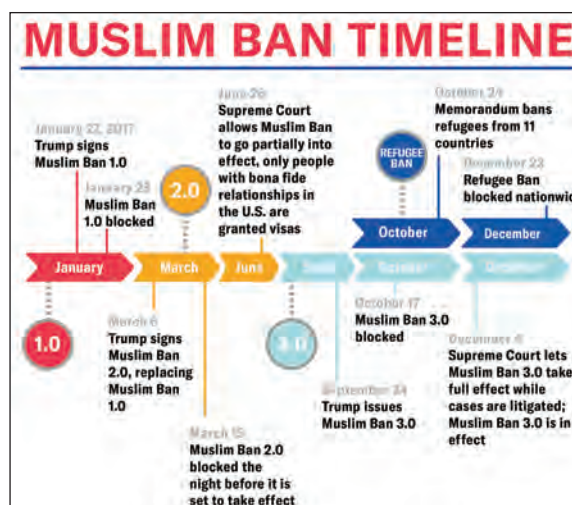
HAWAII V. TRUMP

Supreme Court Oral Arguments

On April 25, the Supreme Court heard oral arguments against the Muslim Ban in the case of *Hawaii v. Trump*. Counsel for plaintiffs argued that the latest iteration of the Muslim Ban violates the Constitution and federal law, and is nothing more than the fulfillment of the president’s promise to prohibit Muslim immigration to the United States.

Karen Korematsu, daughter of ACLU plaintiff Fred Korematsu, filed a supporting brief, drawing a comparison to the Japanese-Americans who were interned in the 1940s due to discrimination not unlike what we are seeing today.

Outside the Supreme Court, a diverse and unified crowd rallied to oppose the Muslim Ban and show solidarity and unity in the face of discrimination from the highest levels of government.



VIEW THE INTERACTIVE TIMELINE:
www.aclunc.org/sites/muslim-ban

THE MUSLIM BAN VIOLATES THE CONSTITUTION AND FEDERAL LAW, AND IS NOTHING MORE THAN THE FULFILLMENT OF THE PRESIDENT’S PROMISE TO PROHIBIT MUSLIM IMMIGRATION TO THE UNITED STATES.

PROPOSED HHS RULE ALLOWS HEALTHCARE REFUSALS

In January 2018, the Trump Administration released a new proposed rule through the Department of Health and Human Services (HHS) that would allow doctors, nurses, and other health workers to refuse to provide critical health care services. Referred to as “conscience protections,” the policy would allow health care providers who do not want to perform abortions or treat transgender patients to opt out of their professional duties based on their religious or moral beliefs.

In coordination with ACLU National and other California affiliates, the ACLU Foundation of Northern California submitted official comments on the proposed rule this spring. The comments voiced strong objections, arguing that the proposed rule puts faith before patients’ health and contravenes HHS’s core mission of protecting and advancing the health of all. The ACLU further noted that the rule fails to address discrimination that continues to have a grave impact on the health of our communities, including LGBT individuals, women, and people of color.

“Medical standards, not religious belief, should guide medical care,” said Elizabeth Gill, a Senior Staff Attorney with the ACLU Foundation of Northern California. “Should the administration choose to move forward to implement a discriminatory policy, we will see them in court.”

IN IT FOR THE LONG HAUL: THE ACLU'S FIGHT TO ABOLISH THE DEATH PENALTY

AN INTERVIEW WITH SENIOR STAFF ATTORNEY LINDA LYE

Often, progress doesn't happen quickly. The ACLU of Northern California has been fighting against the death penalty since shortly after the organization was founded in 1934. Despite a recent setback with the passage of Prop 66, which speeds up death penalty procedures in California, our lawyers continue to fight the death penalty. Senior Staff Attorney Linda Lye spoke to us about her current work on this issue and what motivates her to push forward.

WHERE DOES THE ACLU'S CURRENT WORK ON THE DEATH PENALTY STAND?

We haven't had an execution in California since 2006 and we want to keep it that way.

Fighting the death penalty is a multi-pronged, long-haul battle that requires a lot of legal dexterity. It requires developing expertise in many fields—for example, I've learned a lot about anesthesiology and pharmacology in order to understand the impact of the state's execution protocol on inmates. We've seen horrifically botched executions around the country and we are concerned that California's protocol invites the same kinds of gruesome mistakes.

We currently have three cases pending. The first challenges the state statute that designates lethal injection as the state's default method of execution but delegates to the California Department of Corrections and Rehabilitation (CDCR) unbridled discretion to develop standards for administering lethal drugs. The statute violates the separation of powers clause of the state constitution and its animating principle of political accountability.

There are dozens of implicit policy choices made when the state drafts an execution protocol. How much pain will the inmate experience? How long will the procedure take? The legislature abdicated its duty to make the fundamental policy choices about how—if we are going to have executions—we are actually going to put someone to death. Instead, it punted on these tough choices and gave unelected officials unchecked power to decide these important issues, thereby insulating itself from being held accountable when something goes wrong.

The second case is a challenge under the State Administrative Procedure Act (APA), which is intended to prevent state agencies from adopting poorly thought out regulations. The CDCR has been unable to develop an execution protocol that can satisfy the requirements of this statute or gain approval of the state's own Office of Administrative Law. So in January of this year, it just decided to ignore the APA entirely, wrongly claiming that its death penalty regulations are entirely exempt.



Senior Staff Attorney Linda Lye has worked at the ACLU Foundation of Northern California since 2010. In addition to death penalty litigation, she works on issues including surveillance, open government, free speech, and economic justice. In 2015, The Recorder named her as one of "Four Public Interest Lawyers To Know." Before coming to the ACLU, she was a partner at Altshuler Berzon and clerked for Ruth Bader Ginsburg of the United States Supreme Court.

Lastly, we have a First Amendment challenge that calls on the state to recognize the media and other witnesses' First Amendment right to view executions in their entirety. In recent years, there has been a slew of botched executions nationwide and the media and the public have the right to see, and report on, every execution.

WHAT CONCERNS DO YOU HAVE ABOUT THE WAY IN WHICH THE DEATH PENALTY IS APPLIED?

The 14th Amendment is supposed to guarantee due process of the law and equal protection under the law. But the criminal justice system is infused with both explicit and implicit racial and class bias. Receiving a death sentence is largely dependent on how much money the accused has, the skill of his or her attorneys,

"THE CRIMINAL JUSTICE SYSTEM IS INFUSED WITH BOTH EXPLICIT AND IMPLICIT RACIAL AND CLASS BIAS.

RECEIVING A DEATH SENTENCE IS LARGELY DEPENDENT ON HOW MUCH MONEY THE ACCUSED HAS, THE SKILL OF THEIR ATTORNEYS, THE RACE OF THE VICTIM AND THE ACCUSED, AND WHERE THE CRIME TOOK PLACE."

—LINDA LYE

CONTINUED ON PAGE 9


DEATH PENALTY INTERVIEW CONTINUED

the race of the victim and the accused, and where the crime took place. People of color are more likely to be executed than white people, especially if the victim is white. This is not justice.

WHY IS LIFE WITHOUT PAROLE A BETTER OPTION?

Life without parole provides a swift and certain punishment that costs the state significantly less than the death penalty—without putting innocent lives at risk. Since 1973, 162 people on death row have been exonerated after new evidence proved their innocence. Executing someone is irreversible and the risk of executing an innocent person is simply too great.

WHAT MOTIVATES YOU TO DO THIS DIFFICULT WORK?

Mitchell Sims and Jarvis Masters. They are two of my clients. There are over 700 people on California's death row and each one is a human being who has a tremendous capacity for love, humor, wisdom, and rehabilitation. That is what makes it so real for me. We are all deeply flawed, but that doesn't stop us from being human. It's what makes us human. 

This interview was conducted by Carmen King, a Communications Associate at the ACLU of Northern California.

FACEBOOK'S PRIVACY DEBACLE

The recent revelation that Cambridge Analytica harvested a trove of personal information from 87 million Facebook users for a political influence and propaganda operation has sparked widespread outrage. Facebook's shortcomings are now laid out for the world to see. But what many people initially described as a "hack" was, in truth, business as usual.

Thanks to your support, the ACLU Foundation of Northern California has been at the forefront of this advocacy for years, sounding the alarm about fundamental privacy shortcomings at Facebook and beyond. We have continuously pushed Facebook to improve their privacy policies, and educated the public about the vulnerability of their personal data.

Users' personal information was accessed through the Facebook "app gap," a major privacy hole in Facebook's app platform. The ACLU of Northern California has been challenging this policy since 2009, when we embarked on a public education campaign to reveal how Facebook quizzes gather information about users and their Facebook friends.

Though many people at that time had their Facebook profiles set to "private," app developers still had access to almost everything in their profile: religion, sexual orientation, political affiliation, pictures, and groups. Apps also had access to most of the info on friends' profiles. This meant that if a user's friend took a seemingly harmless personality quiz or allowed a fun app to "plug in" to their profile, they risked giving away their friends' personal information too.

Sadly, the Cambridge Analytica debacle was a predictable outcome of the choices that Facebook has made to prioritize the bottom line over user privacy and safety. We hoped it wouldn't come to this. But we were ready to respond when it did.

Facebook has modified its policies and practices over the years as a result of pressure from the ACLU and our partners. Its current app platform prevents apps from accessing formerly available data about a user's friends. Facebook now also prohibits use of its data to build surveillance tools, thanks to an ACLU of Northern California investigation that revealed that social media surveillance companies were improperly exploiting Facebook developer data access in order to monitor Black Lives Matter and other activists.

Nicole Ozer, the Technology & Civil Liberties Director with the ACLU Foundations of California, was a featured guest on KQED's April 10 special live show analyzing Facebook CEO Mark Zuckerberg's recent appearance in front of the Senate Judiciary and Commerce committees.

In her statements to KQED, Ozer noted that user control is a key component of the updates Facebook needs to make. "Several times today, Mark Zuckerberg said that Facebook is free. Facebook is not free. Facebook is incredibly expensive, because people are paying a very high cost with their personal information.... Users don't but should have control over all types of information, and there should be opt-in controls."

Zuckerberg has promised to make more changes and better protect privacy. We'll be keeping a watchful eye to make sure it happens. 

CALIFORNIANS ARE PAYING MORE ATTENTION TO DISTRICT ATTORNEY RACES

By Yoel Haile

In elections where the incumbent has historically gone unchallenged, there were more contested district attorney races on June 5 in California than in recent memory—or perhaps ever before. Although incumbents retained their seats in most counties, a few were unseated. Even more importantly, all elected DAs in California now know they are under a level of public scrutiny that they have never been before.


California voters pressured DA candidates to go public with their positions on criminal

justice reform. In previous elections, far too little information was available for voters about DA candidates' priorities.

Californians showed up at DA candidate forums across California to demand their answers on the issues facing our communities. As DA candidates found themselves in the spotlight, they were forced to defend or distance themselves from the out-of-touch "tough on crime" positions so many DAs have clung to.

Now that we know where our DAs stand, it's our job to hold them accountable.

Over the coming months, the ACLU will be rolling out a plan to ensure that all our elected DAs are doing the job we elected them to do—to ensure justice and safety for all people.

Want to see where your new DA stands? Visit vote4da.org to see their position on key criminal justice issues, and meetyourda.org to find out what's next for your DA. 

Yoel Haile is a Criminal Justice Associate at the ACLU of Northern California.

BOARD ELECTION NOTICE

The ACLU-NC Board of Directors, in accordance with changes adopted in the bylaws in 2003 (Article VI, Section 3 and Article VI, Section 4), have an election schedule as follows:

Nominations for the Board of Directors will now be submitted by the September Board meeting; candidates and ballots will appear in the Fall issue of the ACLU News; elected board members will begin their three-year term in January.

As provided by the revised ACLU-NC bylaws, the ACLU-NC membership is entitled to elect its Board of Directors directly. The nominating committee is now seeking suggestions from the membership to fill at-large positions on the Board.

ACLU members may participate in the nominating process in two ways:

1. They may send suggestions for the nominating committee’s consideration prior to the September Board meeting (Sept. 15, 2018). Address suggestions to: Nominating Committee, ACLU-NC, 39 Drumm Street, San Francisco, CA 94111. Include your nominee’s qualifications and how the nominee may be reached.

2. They may submit a petition of nomination with the signatures of 15 current ACLU-NC members. Petitions of nomination, which should also include the nominee’s qualifications, must be submitted to the Board of Directors by October 5, 2018 (20 days after the September board meeting). Current ACLU members are those who have renewed their membership during the last 12 months. Only current members are eligible to submit nominations, sign petitions of nomination, and vote. No member may sign more than one such petition.

ACLU members will select Board members from the slate of candidates nominated by petition and by the nominating committee. The ballot will appear in the Fall issue of the *ACLU News*.

ACLU-NC 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 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.

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. Once you make this election, you do not need to do so again unless you wish to change your preference back.

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

ACLU Membership Department
125 Broad Street, 18th Floor
New York, NY 10004

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

Member # _____

Name _____

Address _____

City, State, Zip _____

REDUCING POLICE KILLINGS IN CALIFORNIA CONTINUED FROM PAGE 1

Kern County is the place where a member of the public is most likely to die at the hands of police, according to a 2015 report in the *Guardian*. And in Fresno, a recent ACLU report, “Reducing Officer-Involved Shootings in Fresno, California,” revealed a disparate impact of police shootings on low-income communities of color.

But the work on reducing police killings must happen throughout the state. California’s law governing when police can use deadly force was written in 1872 and is woefully out of date.

Police should never use deadly force if alternatives exist. While this seems like a commonsense standard, it isn’t the current practice in California. State law allows a police officer to shoot and kill someone, even if deadly force isn’t required to keep the officer or the public safe.

Assembly Bill 931, authored by Assembly member Shirley Weber, would require that police only use deadly force when there are no alternatives. The bill would also require that an officer’s conduct leading up to a shooting is considered in determining whether deadly force was justified. That way, officers can be held accountable for gross negligence if they escalate a situation that ends in death.

AB 931 would make California the first state in the country to adopt this standard for all law en-

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forcement agencies. Data show that these policies work. When police use tactics to cool down dangerous situations instead of escalating them—it saves the lives of both community members and officers.

AB 931 is just one of many steps California must take to address the current crisis in policing.


The other bill, Senate Bill 1421, introduced by state Sen. Nancy Skinner, would honor the public’s right to know about confirmed officer misconduct and serious uses of force, and would ensure that our systems of policing are open, honest, and accountable to the people they are supposed to protect and serve.

California is one of the most secretive states in the country when it comes to information about police misconduct and use of force, including information about officers who kill, plant evidence, or sexually assault members of the public. Current state law forbids Californians

from getting basic information about these serious abuses of power and bars almost all public access to critical information about investigations and discipline of police officers. Police departments are expressly forbidden from sharing with the public whether an officer is guilty of misconduct, if they have been disciplined, or what the discipline is—they can’t even share the factual findings in investigations of police shootings. This must change.

The public gives police the authority to detain, arrest, and use force. We have a right to know how police use and abuse those powers—and whether departments are holding officers accountable for their actions.

By lifting the veil of police secrecy, SB 1421 will help restore power back to communities throughout the state and make sure departments do a good job of holding officers accountable.

California has seen far too many tragic shootings and unnecessary deaths, and they won’t stop until we change the laws and do all that we can to hold police, and those who police the police, accountable. 

This article was written by Leslie Fulbright, a Communications Strategist at the ACLU of Northern California.

ACLU FIGHTS TRUMP’S UNCONSTITUTIONAL MOVE TO END TPS CONTINUED FROM PAGE 1

have TPS status, Trump referred to the affected nations as “shithole countries.”

The ACLU Foundation is fighting this unlawful and inhumane termination with a lawsuit against the Department of Homeland Security. The suit was filed in U.S. District Court in San Francisco on behalf of nine people with TPS and five American children of TPS holders.

Congress established TPS through the Immigration Act of 1990 to allow foreign nationals from countries affected by armed conflict, disease, or natural disasters to live and work in the U.S. for extended periods. The Trump administration adopted a new, far narrower interpretation of the federal law governing TPS—one that departed from the interpretations of previous administrations—as the basis to terminate TPS status. In doing this, the administration violated the due process and equal protection


guarantees of the U.S. Constitution and the Administrative Procedure Act, which regulates the roles of federal agencies.

Ending TPS threatens the ability of 200,000 people from the affected nations to remain in the United States, many of whom have lived in this country for 20 or more years, and would be forced to upend their lives and leave. In addition, their more than 270,000 offspring were born here, making them U.S. citizen children who have an absolute right to remain here. Many of these children are still in school. Termination of their parents’ TPS would force them to make the horrific choice between leaving the only country they have ever known and remaining here but growing up without their parents.

The suit argues that the administration’s restrictive view of the TPS laws is unconstitutional as it was adopted to further the admin-

istration’s anti-immigrant, white supremacist agenda. The termination of TPS violates the equal protection guarantee of the 14th Amendment’s Due Process Clause because the decision is motivated by race and national origin-based discrimination.

“Termination of TPS was part of an immigration agenda focused on ejecting non-white, non-European, and non-English-speaking people from the United States,” according to the lawsuit.

“People shouldn’t have to choose between country and family,” said William Freeman, a senior counsel with the ACLU Foundation of Northern California. “A U.S. citizen has a fundamental right to reside in this country, and families have a right to live together without unwarranted government interference.” 

LETTER FROM THE EXECUTIVE DIRECTOR

I am asked a lot of questions in the Age of Trump: about the Muslim Ban, the voter fraud commission, the daily executive orders taking away the rights of one group or another, you name it. I'm also asked about our plans and strategy and where things are going at the ACLU of Northern California. Here's where we're going.

WE ARE GOING TO COURT

Litigation is a powerful tool to stop policies of the Trump administration. Here in Northern California and nationally, the ACLU has brought over 100 legal actions to stop these policies. From teens sexually assaulted by border patrol, to immigrant youth detained with no due process or hearings, to federal policies that advance discrimination, ACLU attorneys are going to court to protect basic constitutional rights.

WE ARE GOING TO THE LEGISLATURE

ACLU advocates, as well as our members and allies, have been hard at work advancing an ambitious legislative agenda in Sacramento. Last year, we supported the California Values Act, a major bill that limits the role of California police in immigration enforcement. This year, we are supporting important bills related to police accountability, bail reform, surveillance, sex education and much more.

WE ARE GOING DEEPER IN THE CENTRAL VALLEY

We have just expanded our Fresno office, hiring additional lawyers and organizers, and just moved to a state-of-the-art facility that will be the center of our operations in the Central Valley for some time to come. From that office we are working throughout the region on a range of critical civil liberties issues.

The ACLU is also opening a new office in Bakersfield in Kern County. That region is home to a major immigrant detention facility, has the highest per capita rate of officer-involved shootings, and also happens to be the home of the House Majority Leader.

Further north, we are opening an office in Sacramento, separate from our legislative office, to house a new legal team that will focus on the Sacramento metro area, Stockton and Modesto areas.

FREDERICK DOUGLASS WROTE, "THE LAW ON THE SIDE OF FREEDOM IS OF GREAT ADVANTAGE ONLY WHEN THERE IS POWER TO MAKE THAT LAW RESPECTED." IN 2018, OUR MESSAGE TO VOTERS IS TO BE THAT POWER.

WE ARE GOING TO THE VOTERS

As I write this, we are now taking stock of our work in the June primary and making plans for November. Heading into June, we led a major project to encourage more competitive district attorney races, and to shift the focus of DAs away from policies of mass incarceration. We also had a major David vs. Goliath victory



Photo by Jason Daly

ACLU of Northern California Executive Director Abdi Soltani.

when San Francisco voters rejected Measure H, a deceptive Taser measure backed by the police union, that if passed would have encouraged similar measures to weaken use of force standards.

Coinciding with our plans for the Central Valley, we are now preparing for our major campaign to reach voters in the Central Valley in the November 2018 election. Member support makes these far-reaching efforts possible.

Frederick Douglass wrote, "The law on the side of freedom is of great advantage only when there is power to make that law respected." In 2018, our message to voters is to be that power. Our goal is not just for people to be informed and to vote in November, but for them to become the enduring power in defense of constitutional rights.

A handwritten signature in black ink that reads "Abdi Soltani".

Abdi Soltani
Executive Director
ACLU of Northern California

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