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California

## BANNING 'PRETEXT' TRAFFIC STOPS: THE ONGOING FIGHT AGAINST RACIAL PROFILING

BY LISA P. WHITE

Twenty-five years after the ACLU of Northern California cast a national spotlight on racial profiling with our groundbreaking “Driving While Black or Brown” campaign, the latest statewide data confirm that law enforcement officers continue to disproportionately stop and search Black and Latinx motorists.

Despite this lack of progress, we persist in our advocacy for racial justice in policing. In San Francisco, where Black residents are less than 5 percent of the population but make up 26 percent of police stops and 36 percent of searches, ACLU NorCal recently worked with a broad alliance of civil rights advocates and community groups, including the San Francisco Public Defender’s

Office, GLIDE, the San Francisco Bike Coalition, and Walk San Francisco, on a proposal to ban racially biased “pretextual stops.”

Police often use pretext stops for minor traffic violations, such as a broken taillight or expired registration, as an excuse to look for evidence of criminal activity.

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## “I WON, BUT I STILL LOST”: ADVOCACY AGAINST ICE’S ABUSE OF POWER IN CALIFORNIA

BY SARAH HOPKINS

In 2017, Carlos Saucedo got a phone call in prison. The California Board of Parole Hearings had just granted him release after serving 22 years. He was due to return home in two weeks. An Immigration and Customs Enforcement (ICE) agent was on the line, warning him that he might not go home; ICE might intercept his release because he was born outside the U.S. His mother had immigrated with him as a young child, and though he had a green card, he was not a U.S. citizen.

“Hearing that I might go home, or I might not, was very painful to hear,” said Carlos. “I’d been incarcerated since I was a 15-year-old teenager. It was like they were playing with my emotions, and with my family’s.”

His family remained in denial. “They didn’t understand,” Carlos recalled. “They said, ‘You paid your debt, you had a green card, you can just go to immigration court. You don’t need to be detained.’ But I told my family not to come pick me up. I had a feeling that I wouldn’t come home.”

Carlos was right. On the day he was meant to be released, he was shackled and driven to



Carlos Saucedo, who served his time for a crime he committed at 15, was released from prison—then immediately detained by ICE.

an ICE office in Sacramento, where he says agents pressured him to sign for deportation. “You’re never going to get out of detention, you’re never going to win your [immigration] case,” he remembers them saying.

CONTINUED ON PAGE 7

# RESISTING CALIFORNIA’S CRIMINALIZATION OF HOMELESSNESS

BY BRADY HIRSCH

The ACLU of Northern California is fighting hard against the criminalization of homelessness, but California’s housing crisis is a humanitarian disaster that’s only growing worse. What should be a moment of reckoning that launches affordable housing production into high gear and a recognition of unhoused people as our neighbors deserving of dignity and shelter has instead produced a wave of cruel anti-homeless laws.

Cities like Chico have responded to their growing unhoused population with brutality, first conducting encampment raids that displace people—many of whom are fire refugees—and then trying to corral the people they’ve evicted into a barren human stockade on the edge of city limits.

In Santa Cruz, Mountain View, and Pacifica, residents who can’t afford exorbitant rents have started living out of their vehicles to keep a roof over their heads. Local officials have responded with a surge of citations intended to make the lives of vehicularly housed people so miserable that they leave town.

The only solution to California’s homelessness crisis is to support affordable housing for all residents. Until that happens, the ACLU will keep working to force our leaders to deal with the root of the problem.

But perhaps no other city better exemplifies the problem more than San Francisco, which we sued in September for violating the constitutional rights of the unhoused.

A 2016 report by the Berkeley Law Policy Advocacy Clinic discovered that San Francisco has the most anti-homeless laws of any city in California. The millions the city devotes to homeless services belies the sad truth that San Francisco also exerts significant energy to harass and further destabilize those with nowhere left to turn, leaving them trapped and traumatized.

From its beginning to today, San Francisco’s housing policies have favored white, affluent communities to the detriment of the city’s low-income communities of color. That bias has helped produce the racial disparities in our homeless population—37 percent of the 8,000 unhoused residents are Black, despite only being 5 percent of the city’s population.


In *Martin v. City of Boise* and *Johnson v. Grants Pass*, the Ninth Circuit ruled that unless a city provides adequate alternative shelter, it is unconstitutional to force homeless people from where they are sleeping or camping. Doing so

violates the Eighth Amendment’s prohibition on cruel and usual punishment.

San Francisco only has enough shelter for approximately 40 percent of its unhoused population, meaning that the city cannot legally demolish homeless encampments. Yet rather than marshalling the resources needed to provide shelter to those living on the streets, San Francisco’s leaders try to hide the problem by shuffling people from one block to the next.

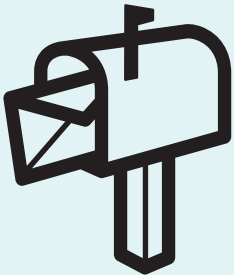
San Francisco has the ability to keep sidewalks accessible without harming the unhoused. In fact, most unhoused people would welcome assistance with sanitation and garbage disposal. But the city’s policy has been to regularly seize and destroy unhoused people’s shelter and belongings, belongings that include family photos, precious keepsakes, medication, identification, and important personal and legal documents, i.e., the very materials one needs to rebuild their life.

On December 23, a federal judge issued an emergency order blocking the city from displacing unhoused residents through encampment demolitions or other means, calling the city’s arguments “wholly unconvincing.” Not even two weeks later, San Francisco violated that order, destroying people’s shelter in the midst of a week-long torrential downpour. Soon after, the city appealed, and we’re now in settlement discussions.

The only solution to California’s homelessness crisis is to support affordable housing for all residents. Until that happens, the ACLU will keep working to force our leaders to deal with the root of the problem, instead of adding more pain to the victims of the government’s failures. 

Brady Hirsch is a communications strategist at the ACLU of Northern California.

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# LEGAL AND POLICY UPDATES

BY BRADY HIRSCH, CARMEN KING, AND LISA P. WHITE

## VICTORY! A COMMUNITY IN FRESNO COUNTY RECEIVES A NEW NAME

BY CARMEN KING

After decades of organizing and advocacy efforts led by Indigenous people, a community in Fresno County officially has a new name. On January 12, the U.S. Board on Geographic Names voted to change the name from a derogatory term that demeans Indigenous women to Yokuts Valley. Yokuts means “people” and was chosen to honor the land’s first inhabitants as well as future residents and visitors to the community.

In a press statement issued in response to this victory, the Department of the Interior Secretary Deb Haaland said, “Words matter, particularly in our work to ensure our nation’s public lands and waters are accessible and welcoming to people of all backgrounds. I am grateful to the members of the Derogatory Geographic Names Task Force and the Board on Geographic Names for their efforts to finalize the removal of this harmful word. Together, we are showing why representation matters and charting a path for an inclusive America.”

The ACLU of Northern California recognizes that our state was founded on the forced removal, enslavement, and genocide of Indigenous peoples and that these communities continue to suffer from historic injustices due to the dispossession of their lands, people, culture, languages, and resources. We must not celebrate or whitewash this history by ignoring the impact derogatory place names have on Native communities living in California today.

*Carmen King is a communications strategist at the ACLU of Northern California.*

## ACLU CHALLENGES UNCONSTITUTIONAL COVID-19 MISINFORMATION LAW

BY BRADY HIRSCH

In the last legislative session, California lawmakers passed AB 2098, a bill that imposes professional sanctions on doctors who convey either “misinformation” or “disinformation” about COVID-19 to patients under their care.

The government should protect us from unsafe treatments and fraudulent information, but unfortunately, AB 2098 is not the proper vehicle. Its language is vague and unconstitutional, risking serious unintended consequences. The bill’s text does not adequately define what counts as misinformation or disinformation, and in a rapidly evolving environment, where new research continually questions past knowledge,

doctors may fear that openly communicating with patients about treatment options could lead to the loss of their medical license.

AB 2098 is unconstitutional for a second reason. Courts interpret the First Amendment to strictly limit government interference in doctor-patient communications, which AB 2098 does. As the U.S. Supreme Court has explained, patients suffer if doctors are afraid to have frank conversations.

Fortunately, AB 2098 is not necessary to stop dangerous doctors. The state medical board already has the power to discipline physicians who prescribe dangerous medications, defraud patients, or fail to get informed consent by, for example, not providing their patients with all the information they need to make personal healthcare choices.

The ACLU Foundation of Northern California, joined by the ACLU Foundation of Southern California, submitted amici curiae briefs in four separate lawsuits aimed at AB 2098. In January, a federal judge granted a preliminary injunction, blocking California from enforcing the law against the plaintiffs in two of the cases. The plaintiffs in the other two cases have appealed to the Court of Appeals for the Ninth Circuit, where briefing is ongoing. ACLU NorCal and ACLU SoCal submitted an amici curiae brief in the appeal to the Ninth Circuit as well.

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The courts have historically interpreted the First Amendment to strictly limit government interference in doctor-patient communication. Patients suffer if doctors are afraid to have frank conversations.

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## FAIR ELECTIONS FOR OAKLAND

BY LISA P. WHITE

In November, voters overwhelmingly approved Measure W, the Oakland Fair Elections Act. The measure increases donor transparency, limits campaign contributions, and provides residents with “Democracy Dollars” vouchers to fund local candidates. ACLU NorCal helped sponsor the measure to improve accountability and fairness in Oakland elections.

Measure W is an outgrowth of discussions by the ACLU of Northern California board following the U.S. Supreme Court’s 2010 *Citizens United v. Federal Election Commission* ruling which allowed corporations and special interest groups

to spend unlimited sums on elections. ACLU NorCal then conducted the research and formed the coalition that culminated in sponsoring and funding Measure W with our partners.

Under the new rules, Oakland candidates and ballot measure committees must list the top three contributors on all campaign mailers and ads.

The measure also sets a \$600 maximum contribution in city races and prohibits former city officials from lobbying for two years. Finally, the most innovative feature is to provide Oakland residents four \$25 vouchers to contribute to local candidates as part of the “Democracy Dollars” program. Together, these changes help move forward the goal of fair elections and a vibrant democracy in Oakland.

*Lisa P. White is a communications strategist at the ACLU of Northern California.*

## ACLU-BACKED POLICE MILITARIZATION LAW HELPS DEFEAT LETHAL ROBOT POLICY


BY BRADY HIRSCH

In late 2022, the San Francisco Police Department requested permission to kill using robots armed with lethal weapons, provoking a firestorm of controversy that made national news.

The catalyst for SFPD’s request was a new state law, AB 481, a bill the ACLU supported to challenge the police’s growing, often covert, accumulation of military weaponry. For decades, police departments have quietly stockpiled weapons and machinery of war, without disclosing what they have, or how it will be used.

AB 481 required a public accounting and reevaluation of all existing military inventory, the theory being that unearthing police militarization is the first step to contesting it. The explosive attention to “killer robots” proved the point. The public was outraged, and they organized.

Between 2013 and 2021, the SFPD was 9.7 times more likely to kill Black people than white people, relative to the racial composition of the population. Robots, which let officers kill impersonally and at a distance, even if first used in limited circumstances, would inevitably lead to more killings.

After a widely attended protest outside of San Francisco City Hall, members of the Board of Supervisors originally in favor of granting permission were forced to backtrack, taking the extraordinary step of reversing their vote on the second reading, usually considered a formality. This outcome reveals the importance of transparency and open debate in local policy conversations. If the public didn’t have the opportunity to speak up, elected officials would have likely deferred to the police, and lethal robots would have become legal in San Francisco. 

# ACLU CALIFORNIA ACTION KICKS OFF 2023 LEGISLATIVE SESSION WITH BOLD AGENDA

BY CARLOS MARQUEZ III

Several new laws enacted in 2022 sponsored by ACLU California Action have been in effect since Jan. 1. Major policy improvements include new protections for pregnant people and their medical providers from criminalization for pregnancy outcomes; enhanced voting rights for people with disabilities and for people at risk of being mistakenly removed from voter rolls; the repeal of loitering laws that previously enabled discriminatory policing of communities of color, including trans women of color; the creation of a process for eliminating racially offensive place names; and the opportunity for prior racist convictions and sentences to be overturned.

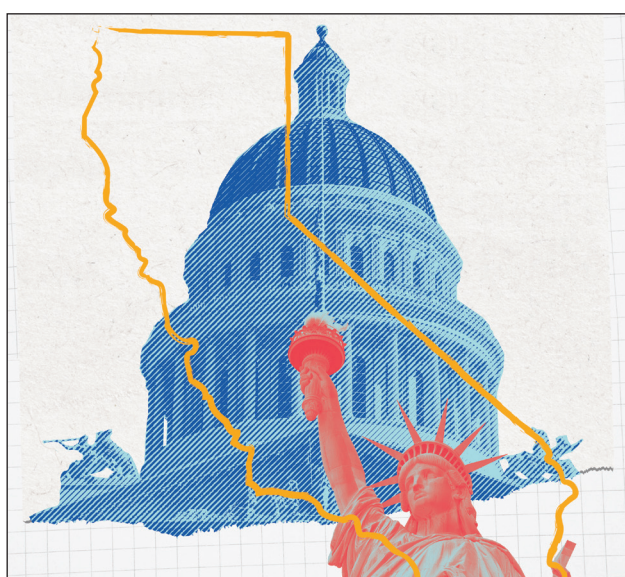
The 2023/24 legislative session is in full swing. We're focused on advancing a bold new policy agenda that aims to address some of the most pressing civil rights and civil liberties challenges facing vulnerable Californians today while cultivating relationships with the largest freshman class sworn in to office in many years.

Chief among our priorities include several bills for the legislature to refer state constitutional amendments for approval by voters in 2024: to restore the voting rights of people currently incarcerated in prison (ACA4); banning the practice of forced labor and involuntary servitude in our prisons and jails (ACA8); and enshrining a right to housing in the constitution (ACA10). We're also working in coalition with other civil rights organizations to repeal Proposition 8 and eliminate this vestige of discrimination against same-sex couples from our constitution once and for all (ACA5).

Beyond our efforts to amend the state constitution, we are pursuing a range of other major statutory changes that, if enacted: protect people from the dangerous deployment of police canines for arrest, apprehension, and crowd control; ban consent searches and facial recognition surveillance; ensure people interacting with the criminal legal system have prompt appointment of counsel before being asked to waive their established right to counsel, often under conditions of duress; and enhance protections for unhoused people by adding housing status to the state's anti-discrimination law.


Reproductive justice will continue to feature prominently in our 2023 policy agenda. We are working with Asm. Mia Bonta, the author of AB793, to block law enforcement agencies from compelling tech companies to hand over the names and identities of all people whose digital data shows they've spent time near a California abortion clinic or searched for information about gender-affirming care online.

And much work is ahead related to voting rights, education equity, and immigrant rights. We're partnering with Common Cause to modernize the redistricting process to include jurisdictions not reflected in the original FAIR Maps Act passed in 2019, enact stronger transparency and public



engagement requirements for local jurisdictions, and further reduce political influence in the process. Regarding education equity, we continue to forge ahead with efforts to dismantle the school-to-prison pipeline by eliminating mandatory notification requirements for educators to report certain student-involved incidents to police, thereby reducing interactions between students and law enforcement. In the same vein, we are working to ensure students cannot be suspended or expelled for disruption or defiance, which disproportionately impacts Black and Brown students. Finally, we are continuing to advocate for stronger protections for immigrants in custody, as well as those entering and exiting the criminal legal system.

We're proud to announce that this ambitious policy agenda will be led and facilitated, in collaboration with our three affiliates, by ACLU California Action's newly hired Director of Government Affairs, Carmen-Nicole Cox, as well as the rest of the advocates in our Government Affairs team.

2023 is a consequential year for the ACLU in California and nationally. If we are to be successful at enacting these transformative policy proposals in the Legislature and at the ballot, we will need your voice and support. To learn more about ACLU California Action and how you can get involved, visit [aclucalifornia.org](https://aclucalifornia.org) today . 

*Carlos Marquez III is executive director of ACLU California Action.*

## BILLS BY ISSUE AREA

### CRIMINAL JUSTICE

(Weber): Judicial discretion re: competency restoration likelihood

(Jones-Sawyer): Prompt appointment of counsel

ACA8 (Wilson): Ban on involuntary servitude constitutional amendment

### POLICE PRACTICES

AB 93 (Bryan): Ban on consent searches

AB 742 (Jackson): Ban use of police canine dogs for arrest, apprehension, crowd control

### RACIAL & ECONOMIC JUSTICE

AB 920 (Bryan): Amend CA's nondiscrimination statute to include housing status

ACA10 (Haney): Establish a constitutional right to housing as a human right

AB 1266 (Kalra): Eliminate remaining criminal administrative fees

### GENDER, SEXUALITY, & REPRODUCTIVE JUSTICE

AB 793 (Bonta): Ban on use of search-based and geotarget/geofence-based reverse warrants by law enforcement

### TECHNOLOGY & CIVIL LIBERTIES

AB 1034 (Wilson): Facial recognition ban legislation to counteract likely permissive standards bill being sponsored by Police Chiefs and authored by Asm. Phil Ting

### EDUCATION EQUITY

AB 1373 (Kalra): Rerun of SB 1273:

Elimination of educator mandatory notification requirements

SB 274 (Skinner): Extend ban on willful disruption/defiance-based suspensions and expulsions

### VOTING RIGHTS

AB 764 (Bryan): Expansion of the FAIR Maps Act

AB 453 (Cervantes): CA Voting Rights Act modernization

ACA 4 (Bryan): Prison voter enfranchisement constitutional amendment

### IMMIGRANTS' RIGHTS













SB 54 implementation: administrative advocacy with DOJ and CDCR






SB 852 (Rubio) Prohibit ICE from engaging in "probationary searches," limit exclusively to probation or peace officers



# 2022 STATE LEGISLATIVE **SENATE** SCORECARD

 **CHAMPION**  **ADVOCATE**

MEMBER LAST NAME	OVERALL SCORE
 Allen (D)	100
Archuleta (D)	75
 Atkins (D)	100
Bates (R)	11
 Becker (D)	100
Borgeas (R)	7
 Bradford (D)	100
Caballero (D)	71
 Cortese (D)	100
Dahle (R)	8
Dodd (D)	54
 Durazo (D)	100
Eggman (D)	86
Glazer (D)	44
 Gonzalez (D)	92
Grove (R)	8
Hertzberg (D)	85
Hueso (D)	79
Hurtado (D)	15
Jones (R)	18
 Kamlager (D)	100
 Laird (D)	95
 Leyva (D)	100
 Limón (D)	91
 McGuire (D)	90

MEMBER LAST NAME	OVERALL SCORE
Melendez (R)	14
Min (R)	58
Newman (D)	85
Nielsen (R)	13
Ochoa Bogh (R)	5
 Pan (D)	100
Portantino (D)	79
Roth (D)	62
Rubio (D)	64
 Skinner (D)	100
 Stern (D)	93
Umberg (D)	64
 Wieckowski (D)	100
 Wiener (D)	100
Wilk (R)	17



**ACLU** CALIFORNIA ACTION

# STATE LEGISLATIVE SCORECARD **2022**



## ABOUT THE SCORECARD

ACLU California Action publishes an annual legislative scorecard evaluating the vote records of California’s 120 state legislators on pressing civil rights and civil liberties legislation from the prior year. We weigh in on hundreds of bills a year, ranging from criminal justice to privacy to voting rights. Review our newly released 2022-23 legislative scorecard here to:

- > Find out where your legislator stands on the most consequential civil rights and civil liberties issues impacting Californians today.
- > Thank “Champions” and “Advocates” for their support.
- > Call on all legislators to join us in our ongoing fight for justice for democracy.

ACLU California Action is nonpartisan. We do not endorse or oppose candidates for elected office, nor do we make financial contributions to candidates. We urge voters to go to the polls and educate the public about their legislators’ records on civil rights and civil liberties through a range of programs, including amplifying key votes cast by legislators through in-district paid communications campaigns.

## HOW SCORES ARE CALCULATED

**CHAMPIONS:** Legislators who scored 100% on legislation officially sponsored by ACLU California Action in 2022.












**ADVOCATES:** Legislators who scored 90-99% on legislation officially sponsored by ACLU California Action in 2022.

















The information available on this Scorecard, such as the legislators, score, caucus, committee, and district number, are based on the data from the 2022 legislative session. As a result of redistricting, you may be represented by different lawmakers and/or have different district numbers. Find your updated information [findyourrep.legislature.ca.gov](https://findyourrep.legislature.ca.gov).



# 2022 STATE LEGISLATIVE ASSEMBLY SCORECARD

 CHAMPION  ADVOCATE

MEMBER LAST NAME	OVERALL SCORE
 Aguiar-Curry (D)	90
 Alvarez (D)	100
Arambula (D)	70
 Bauer-Kahan (D)	100
 Bennett (D)	100
 Berman (D)	100
Bigelow (R)	13
 Bloom (D)	100
Boerner Horvath (D)	89
 Bonta (D)	100
 Bryan (D)	100
 Calderon (D)	100
 Carrillo (D)	100
Cervantes (D)	88
Chen (R)	13
Choi (R)	13
Cooley (D)	50
Cooper (D)	38
Cunningham (R)	25
Dahle (R)	14
Daly (D)	75
Davies (R)	14
Flora (R)	11
 Fong, M. (D)	100
Fong, V. (R)	8

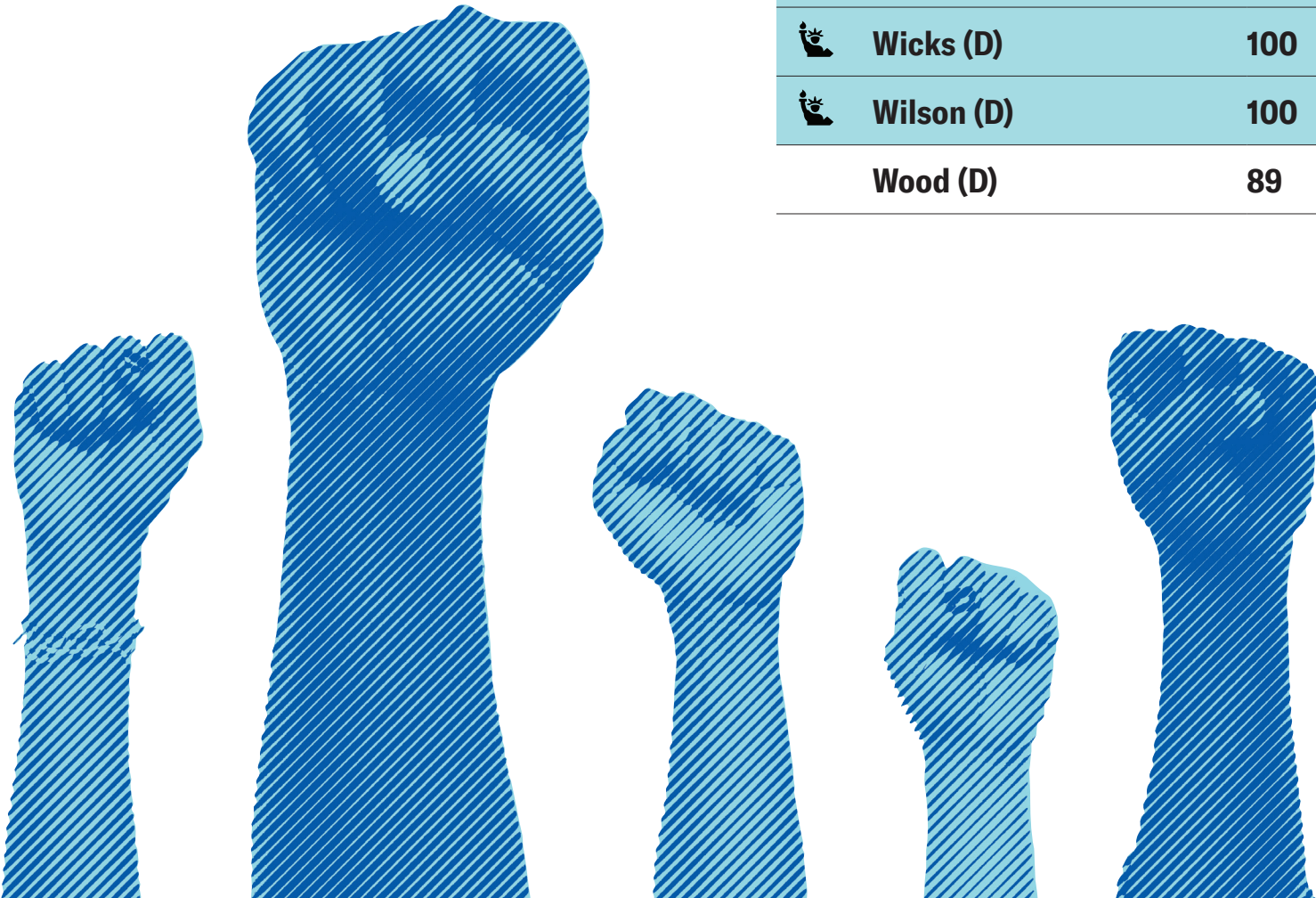
MEMBER LAST NAME	OVERALL SCORE
 Friedman (D)	100
 Gabriel (D)	100
Gallagher (R)	22
 Garcia, C. (D)	100
 Garcia, E. (D)	100
 Gipson (D)	100
Gray (D)	25
Grayson (D)	88
 Haney (D)	100
 Holden (D)	100
Irwin (D)	50
 Jones-Sawyer (D)	100
 Kalra (D)	100
Kiley (R)	13
Lackey (R)	7
 Lee (D)	100
 Levine (D)	100
 Low (D)	100
Maienschein (D)	80
Mathis (R)	11
Mayes (NPP)	30
 McCarty (D)	100
 McKinnor (D)	100
 Medina (D)	100
 Mullin (D)	100

2022 STATE LEGISLATIVE ASSEMBLY SCORECARD CONTINUED

 CHAMPION  ADVOCATE

MEMBER LAST NAME	OVERALL SCORE
Muratsuchi (D)	63
Nazarian (D)	78
Nguyen (R)	22
O'Donnell (D)	75
Patterson (R)	13
Petrie-Norris (D)	50
 Quirk (D)	100
 Quirk-Silva (D)	100
Ramos (D)	50
 Rendon (D)	100
 Reyes (D)	100
 Rivas, L. (D)	100
 Rivas, R. (D)	100

MEMBER LAST NAME	OVERALL SCORE
Rodriguez (D)	50
Rubio (D)	89
Salas (D)	44
 Santiago (D)	100
Seyarto (R)	7
Smith (R)	22
 Stone (D)	100
 Ting (D)	100
Valladares (R)	13
Villapudua (D)	44
Voepel (R)	11
Waldron (R)	11
 Ward (D)	100
 Weber (D)	100
 Wicks (D)	100
 Wilson (D)	100
Wood (D)	89



# ACLU DEFENDS CONSTITUTIONAL RIGHT TO A MEANINGFUL CRIMINAL DEFENSE

BY TAMMERLIN DRUMMOND

In 1961, Clarence Earl Gideon was accused of stealing some bottles of beer and \$5 in vending machine coins from a pool hall. At his trial, the Florida judge refused Gideon's request for court appointed legal counsel. Since he couldn't afford an attorney, Gideon had to defend himself as best he could. He was convicted and sentenced to five years in prison.

While incarcerated, Gideon sent a handwritten petition to the U.S. Supreme Court, arguing that the judge had violated his right to a fair trial by denying him an attorney.

In a 1963 landmark case, *Gideon v. Wainwright*, the high court found that the constitution guarantees anyone accused of a felony the right to a defense attorney. If they are indigent, the state must appoint one for them at public expense. The ACLU supported Gideon's lawsuit. The federal law was later expanded to cover misdemeanors with the potential for jail time and juvenile cases.

And yet 60 years later, millions of people struggle to access the right to counsel to which they are constitutionally entitled.

Our ACLU of Northern California criminal justice team has been working on indigent defense for the past decade, filing a major case in 2015 against Fresno County and the State of California. As a result of a 2020 settlement, Governor Gavin Newsom agreed to designate \$10 million for a grant program for indigent defense. It was the first time the state had provided money specifically for local public defender programs. And it paved the way for a three-year pilot program that earmarked \$50 million annually to help people get resentenced and released from prison under recently passed post-conviction reforms.

Since then, we have dug even deeper and documented a shocking fact. Across the state, people are routinely pleading guilty to criminal charges—without ever having consulted with an attorney. Many times these uncounseled pleas have severe immigration and other collateral consequences. This is happening even though 80 percent of those arrested are eligible for a free, court-appointed public defender.

"There's been a lack of resources for public defender offices and a lack of political will to enforce the law," said Mica Doctoroff, a staff attorney for the criminal justice program at the ACLU of Northern California. "What we're trying to do is make sure that the constitutional right to counsel is enforced the way the law intended, and that people are able to access that right."

## GIDEON'S FAILED PROMISE

You've probably seen a TV crime show where the police officer recites the Miranda warning to someone they're arresting. "You have the right to remain silent. You have the right to an attorney... if you cannot afford one, one will be provided for you at no cost."

The problem is, California isn't doing nearly enough to guarantee this much-celebrated right to an attorney.



Sixty years after *Gideon v. Wainwright*, millions of people struggle to access the legal services to which they are constitutionally entitled because of our broken indigent defense system.

State officials have pushed that responsibility off onto local counties, which are then left largely to their own devices to fund and run indigent defense programs. Many public defender offices are swamped with cases and starved for resources. Some places farm out indigent defense cases to private attorneys on flat fee contracts.

Those who can't afford a private lawyer, all of them low income and many of them people of color and immigrants, often get steamrolled through quick prosecutions. Or, they languish in jail in pre-trial purgatory.

Say someone who can't afford a lawyer shows up in court to enter a plea. The district attorney or probation officer may inform them that there is a plea offer on the table: if they plead guilty or no contest they can settle their case right away,

but if they refuse and ask for an attorney, the deal might disappear. Defendants who have been locked up in jail since their arrest because they can't afford bail are understandably desperate to get out. Other people can't afford to take time off work to return to court in the hopes of getting an attorney.

We've also documented instances where immigrants were pressured into pleading guilty—without being told it could hurt their immigration cases.

That's coercion. And we won't stand for it.


## FIXING A BROKEN SYSTEM

It's time for California to finally put teeth into the right-to-counsel law. We call on the legislature to create statewide protection for indigent defendants that guarantees them court-appointed legal counsel—before their arraignment. This would be a significant step toward meaningful representation for everyone—regardless of financial means.

The ACLU of Northern California and our sister affiliates have filed lawsuits across the country to compel states to pay more than lip service to people's Sixth Amendment rights.

As a result of an ACLU class action suit in Missouri, a judge ruled in February that indigent defendants facing imprisonment must be represented by a public defender no later than two weeks after their financial qualification has been approved. Thousands of people have been on waiting lists for a public defender—another clear violation of the intent of Gideon.

Here in California and across the United States, the ACLU will continue to hold states accountable for investing in public defense systems that provide meaningful representation to low-income defendants.

It is shameful that six decades later, we are still waiting for Gideon's promise to be fulfilled. 

*Tammerlin Drummond is a senior communications strategist at the ACLU of Northern California.*



# THE ONGOING FIGHT AGAINST RACIAL PROFILING CONTINUED FROM PAGE 1

Officers usually don’t recover contraband or weapons during traffic stops, but they are more likely to ask for consent to search people of color even though data have shown people of color are less likely than white drivers to have illegal items.

In January, the San Francisco Police Commission banned nine pretext stops, including driving with broken brake lights, failing to signal a turn or lane change, sleeping in the car, and hanging objects from the rearview mirror. However, the commission preserved officers’ authority to pull drivers over for serious moving violations.

Since these nine minor infractions accounted for about 10,000 stops annually, ACLU NorCal and our partners hope the new pretext policy significantly reduces racial disparities in traffic enforcement in San Francisco.

“Police stop Black and Brown people because they think they are in the wrong car, in the wrong neighborhood, at the wrong time,” said Yoel Haile, director of the Criminal Justice Program. “Research indicates that the best way to protect people from police violence is to eliminate the possibility of contact in the first place.”

While pretext stops don’t do much to reduce crime, they can have fatal outcomes.

In the wake of the shocking police killings of Tyre Nichols, Philando Castile, Daunte Wright and other Black people whose tragic deaths were set in motion during routine traffic stops, elected leaders and racial justice advocates in California seek to limit enforcement of traffic laws that have a negligible impact on public safety, but are often applied in a discriminatory manner.

Both the state Committee on the Revision of the Penal Code and the Racial Identity and Profiling Advisory Board recommend eliminating pretext stops, and a bill pending in the California Senate would prohibit police officers from stopping motorists or cyclists for low-level infractions. Berkeley ended traffic stops for minor violations in 2021, and last year Los Angeles barred the use of pretext stops to investigate people unless a police officer has a valid reason to suspect the individual of committing a serious crime.

## “DRIVING WHILE BLACK OR BROWN”

ACLU NorCal’s work on racial profiling has deep roots. In 1998, we supported the first state bill that required California law enforcement agencies to collect and report data on the race and ethnicity of motorists pulled over for traffic violations.

Michelle Alexander, author of the “New Jim Crow” and then the director of the ACLU NorCal Racial Justice Project, told ACLU News at the time, “For years, people of color have complained that they have been targeted by police and stopped for no reason other than their race ‘...[T]he perception by people of color that they are often stopped for the innocent offense of ‘driving while Black or Brown’ creates an atmosphere of distrust and a general lack of faith in the criminal justice system.”

In spite of strong support from communities and Black and Latinx law enforcement organizations, then-Gov. Pete Wilson vetoed the legislation. The following year, ACLU NorCal launched a statewide advertising campaign promoting a hotline to collect stories from Californians who believed police had pulled them over because of their race. Within the first seven months, nearly 1,400 people called.

After former Gov. Gray Davis vetoed the second attempt to enact a racial profiling bill in 1999, it

would take another 16 years before state law would direct police departments to record the race of every driver stopped by officers.

## RACIAL AND IDENTITY PROFILING ACT

In 2015, California lawmakers passed the landmark “Racial and Identity Profiling Act,” which prohibits profiling and requires law enforcement agencies to report data on vehicle and pedestrian stops to the Attorney General every year. The legislation also established the Racial and Identity Profiling Advisory Board, which publishes an annual analysis of the data.

The January 2023 report includes statistics on more than 3 million vehicle and pedestrian stops in 2021 from 58 law enforcement agencies, including the California Highway Patrol; Alameda County Sheriff’s Office; and the Oakland, Berkeley, Sacramento, San Jose, Fresno, and San Francisco police departments. The findings provide further evidence that racial disparities persist in policing, despite anti-bias training and other interventions.

In addition to disproportionately stopping Black and Latinx individuals, the report found that police were more likely to use force against them. Furthermore, Black people were searched, ordered from the vehicle, handcuffed, and detained on the curb or in a patrol car at a higher rate than any other racial or ethnic group.

“It’s essentially a tool of racial profiling, like stop-and-frisk for driving. It’s deadly, it’s racist and it’s a wasteful use of police resources.”  
– Yoel Haile, director of the Criminal Justice Program at ACLU NorCal, on pretext traffic stops


## SAN FRANCISCO

In 2016, a San Francisco police officer pulled Tatiana Lewis over at night in the Hunters Point neighborhood. Although her car was missing a front license plate, the officer initially did not say why he stopped her.

“He started asking uncomfortable questions,” said Lewis, now 24. “Do I have a boyfriend, is he a criminal, does he commit crimes in my vehicle?”

Eventually, the officer said a vehicle that looked like hers had been involved in a burglary. Since Lewis was on probation, he searched her car and arrested her when he found pepper spray in her glove compartment. Lewis spent four days in jail and lost her job but was never charged with a crime.

Lewis’ experience is not uncommon in San Francisco, where 31 percent of Black people police stopped were pulled over for vehicle equipment issues, such as failure to display front and rear license plates, compared to just 12 percent of white people, according to a San Francisco Bay Area Planning and Urban Research Association (SPUR) analysis of 2019 RIPA data

Due to such stark racial disparities, the campaign to end biased police stops in San Francisco attracted support from more than 100 organizations, according to Haile. The coalition, which initially proposed banning 18 pretext stops, will monitor SFPD’s implementation of the new policy to ensure compliance and may press for a wider ban if it appears police are still targeting Black and Brown drivers. 

## KEY FINDINGS BASED ON 2021 CALIFORNIA POLICE STOP DATA

- Black people are just 6 percent of the California population, but comprised 15 percent of police stops;
- Latinx residents, who are 36 percent of the state population, accounted for 42 percent of police stops;
- Police were more likely to use force against Black and Latinx people compared to white people;
- Black people were searched, ordered from the vehicle, handcuffed, and detained on the curb or in a patrol car at a higher rate than any other racial or ethnic group;
- Black youth were nearly six times as likely—and Latinx youth were almost four times as likely—to be searched as white teens.

Source: Racial and Identity Profiling Advisory (RIPA) Board 2023 Annual Report



# ADVOCACY AGAINST ICE’S ABUSE OF POWER IN CA

CONTINUED FROM PAGE 1

ICE placed him in deportation proceedings based on his criminal conviction. He was transported to the Yuba County Jail in Marysville, Calif., about 40 miles north of Sacramento, where he spent two years in ICE detention, fighting for his right to remain in the U.S.

“You’re never going to get out of detention, you’re never going to win your [immigration] case,” Carlos Saucedo remembers ICE agents saying.

## A SWEETHEART DEAL AT THE EXPENSE OF HUMAN RIGHTS

At the time, Yuba was one of the few remaining California counties to hold a contract with ICE, allowing the agency to detain immigrants in its jail facility. After the 2017 passage of a state law that prohibited counties from beginning new contracts with ICE, many counties voluntarily ended their preexisting contracts.

Not Yuba. Its contract was so hugely lucrative (by 2020, it amounted to \$8.7 million per year, ensuring ICE a “guaranteed minimum” of 150 beds at the rate of \$158.13 a day per bed, regardless of whether they were occupied) that it had no incentive to end it.

The ACLU has long advocated for the end of immigrant detention. People in ICE

detention are locked up pending hearings in civil immigration cases, which means they have not been ordered deported and may have the legal right to remain in the U.S. Many languish in detention for months and years as they await an outcome in their immigration case. Even people who have won their cases may continue to be detained for years, pending appeals. These burdens disproportionately fall on Black and Brown people in the U.S.

That’s what happened to Carlos. He won his immigration case, but ICE chose to appeal the judge’s order and keep him detained.

By that time, Carlos had suffered severe physical and psychological abuse in immigrant detention. He had seen the people around him suffer, too, deprived of access to recreation, medical care, clean water, and even shoes. He was desperate.

After 25 months in ICE custody, a nurse told him he was at risk of a heart attack because his blood pressure was dangerously high. “I thought, ‘I’m going to die in here.’ I just couldn’t take it no more,” Carlos said. “I couldn’t believe I was still being held in custody even though I won my case. I walked up to an officer and I said, ‘Go ahead and deport me. I’m ready to go.’”

He signed for deportation. But his is not the only story, and his story didn’t end there.

## ADVOCATING FOR ACCOUNTABILITY

In 2022, the ACLU of Northern California joined Carlos and a group of immigrants’ rights organizations, known as the Yuba Liberation Coalition, to advocate for the termination of the Yuba-ICE contract. They assisted detained people with petitions to secure their release; met with Department of Homeland Security (DHS) officials and lawmakers to tell Carlos’s story, and the stories of other detained people; and generated public awareness of the inhumanity and moral bankruptcy of immigrant detention.

On Dec. 9, 2022, DHS announced that it would terminate the Yuba-ICE contract. It officially ended on Feb. 8, 2023, bringing the ACLU one step closer to its goal of shutting down ICE detention centers.

Although advocacy efforts across the state have made it more difficult for ICE to open new detention contracts in California, prisons and jails continue to serve as a pipeline to ICE. In response, ACLU NorCal has worked to hold officials accountable for their continued collusion.


In Dec. 2022, ACLU NorCal reached a settlement with ICE in a lawsuit brought on behalf of Brian Bukle, a Black resident of Riverside County who has lived in the U.S. since he was a toddler, and who has been a U.S. citizen for over 50 years. When Brian was due to be released from prison after serving his time,

officials turned him over to ICE despite the fact that he consistently asserted to both prison and ICE officials that he was a U.S. citizen. In 2020, for 36 days, ICE illegally incarcerated him. Under the settlement, ICE agreed to pay Brian a sum of money for his unlawful arrest and detainment.

Unfortunately, Brian is one of many people in California whom ICE has illegally detained with the cooperation of law enforcement. In November 2021, ACLU NorCal sued former Sacramento Sheriff Scott Jones after obtaining documentation showing that county officials had secretly and unlawfully transferred immigrants to ICE after they had completed their county jail sentences. We reached a settlement with the county in Dec. 2022, requiring the sheriff’s office to update its policies to comply with state law, and to undergo a five-year monitoring period.

There is still much work left to do to protect California immigrants from being handed over to ICE—long recognized as one of the most rogue and abusive agencies in the federal government. ACLU NorCal continues to work in advocacy coalitions to end immigrant detention in California, and to sever the link between ICE and local and state law enforcement.

Meanwhile, ACLU NorCal is representing Carlos in his fight to return home. Although he has the legal right to live in the U.S., ICE won’t let him return.

“There are other ways to deal with immigration cases instead of incarceration. Everyone deserves the opportunity to be treated as a human being,” said Carlos. “The U.S. always says it’s the land where everyone gets an opportunity, where we believe in second chances and justice for everyone. Well, let’s show the world that we give people the opportunity to have a second chance. Because I can’t comprehend that I won, but I still lost.” 

*Sarah Hopkins is a communications strategist at the ACLU of Northern California.*

Visit **[return2us.org](https://return2us.org)** to learn more about Carlos’ story, and to sign a petition supporting his fight to return home.

# A LETTER FROM ACLU OF NORTHERN CALIFORNIA EXECUTIVE DIRECTOR ABDI SOLTANI

As I write this letter, it is the first day of spring. The spring equinox marks Nowruz, the Persian new year which means “new day”. I wish you a happy spring - and Nowruz mobarak. As part of our tradition, families create an altar with seven items that each start with the letter “s” in the Persian alphabet. For our table, my daughter chose sumac, vinegar, apple, garlic, coins, sprouts, and hyacinth. They are laid out along with candles, a mirror, and a book of Persian poetry.

Each item is a symbol of the wishes for the new year. Together, they help us bring forth the new year with hope and optimism.

It is in this spirit that I reflect on the work of the ACLU of Northern California in the year ahead. Despite the enormous challenges facing our communities and country, I draw hope and inspiration from my fellow ACLU staff, our volunteers, clients, and community partners—and supporters like you.

And in the spirit of the Nowruz holiday, I share these seven items that are pivotal to our work in 2023, starting from the local and moving to the national:

**1. Working with people.** ACLU’s work to defend the rights of all people depends on exactly that—people. We work with people in a number of ways. Our intake counselors receive thousands of calls and letters every year. Our investigators set out to jails, immigrant detention facilities, or street encampments to interview people facing civil liberties violations. Our staff work closely with community leaders in impacted communities, from Indigenous leaders in Northern California tribes to an emerging network of sex workers advocating for decriminalization. And our volunteers are organized in 19 chapters, engaged in local advocacy throughout our region.

**2. Local budget advocacy.** Residents want solutions that uphold civil liberties and civil rights, rather than criminalization and incarceration. California has among the highest rates of poverty and unhoused residents. Black people comprise nearly 40 percent of our state’s unhoused population but only 6 percent of our state population, a disparity which in the words of my colleague Brandon Greene, is “neither accidental, nor incidental.” We will press cities and counties to budget for three priorities that

we see as key to reversing these inequalities: 1) housing solutions, 2) alternatives to police to respond to mental health crises or issues affecting unhoused people, and 3) indigent defense as an essential strategy to provide due process and reduce incarceration.

**3. State and federal court litigation.** ACLU of Northern California lawyers are pressing forward with an ambitious litigation docket. Despite the challenges posed by the U.S. Supreme Court, we will continue to bring cases in federal court in our region. And we will increasingly turn to state court litigation and create a new project to systemically monitor cases before the California Supreme Court where we can influence the law. For example, in our long-running work to reform the bail system in California, we filed an amicus brief in a San Mateo county case that will be heard by the California Supreme Court.

**4. An ambitious package of sponsored bills.** As you saw on page 4, the ACLU is working on ambitious legislative agenda, on issues ranging from banning the use of police dogs in arrests and crowd control, to modernizing the California Voting Rights Act. The center spread “scorecard” of this newsletter shows you how your assembly member and state senator voted on the ACLU issues. Call or Tweet to thank the champions.

**5. Solidarity with every state.** Your support enables the ACLU to have an on-the-ground presence in every state, as well as in Puerto Rico and the District of Columbia. In our country’s increasingly polarized climate, and with the Supreme Court turning back the clock on federal protections, the ACLU is stepping up its work to defend fundamental rights in every state. Key issues include voting rights, abortion, transgender rights, and protecting the First Amendment rights of students and educators against censorship. Our Southern Collective is an initiative to support the leadership and work of the ACLU in the South, while the Battleground States Initiative is safeguarding voting rights ahead of the 2024 election.

**6. Advocacy at the Supreme Court.** Last year’s Supreme Court term was a devastating rollback of long-held rights. This term also has vital decisions at stake in cases that the



PHOTO BY BETHANIE HINES

ACLU of Northern California  
Executive Director Abdi Soltani

ACLU is either litigating or supporting in amicus briefs. Key cases—all of which pose threats—include the Alabama redistricting case on racial gerrymandering, the independent state legislatures case, a potential rollback of affirmative action, and a challenge to the Indian Child Welfare Act.

**7. Mobilizing the Public.** As we saw last year in the face of the attack on abortion rights at the Supreme Court and in the states, our final backstop is the American people. In 2022, voters turned out by the millions to vote to safeguard abortion rights. Likewise in 2023, and leading into 2024, the ACLU will be educating and mobilizing the public, including voters, to safeguard fundamental rights.

While Supreme Court justices hold enormous power in our system of government, our Constitution and the protection of its essential rights is also in people’s hands—your hands. Thank you for your support of the ACLU.

Abdi Soltani, Executive Director  
ACLU of Northern California

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