

# ACLUnews

SUMMER 2014

VOLUME LXXVIII ISSUE 2

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## PROTECTING THE RIGHT TO VOTE FOR ALL

Voting is as American as apple pie. Isn't it? We would expect our nation to be united in the effort to make elections as open, fair, and simple as possible. But states across the country are pushing to make it harder to cast a vote. Millions of voters are cut out of the voting process by voter registration limits, shorter voting hours, unreasonable voter ID requirements, and other restrictions.

The communities most affected are those that stand to gain the most from voting, including people of color, language minorities, the elderly, and people with disabilities.

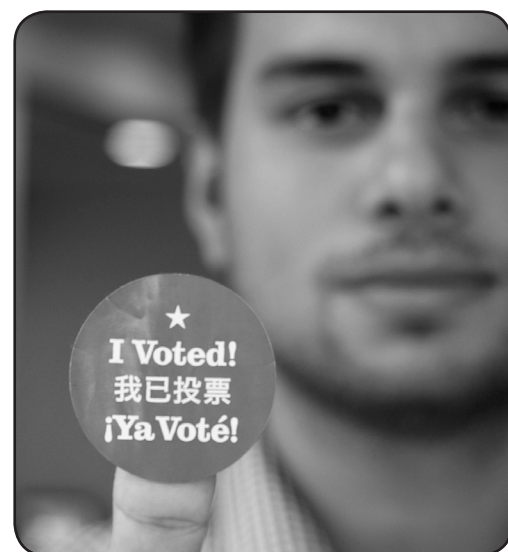
### Coast-to-coast voter protection

The ACLU is litigating and pressing for electoral reforms in over a dozen states. In fact, the ACLU is the only organization that is equipped and ready in all 50 states to fight

back whenever voting rights are threatened.

The ACLU is fighting voter ID laws that threaten to disenfranchise hundreds of thousands of voters. These efforts got a huge boost this year when a Pennsylvania judge struck down that state's voter ID law—one of the most restrictive in the nation. The ACLU case, on behalf of 95-year-old Viviette Applewhite, is a victory for democracy and for free and fair elections that are accessible to all.

CONTINUED ON PAGE 5



Laura Saponara

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# ACLU

AMERICAN CIVIL LIBERTIES UNION  
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. 11, 2014). 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 Oct. 1, 2014 (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*.



## BENEFACTORS DINNER

Generous ACLU supporters gathered at the City Club of San Francisco for the annual ACLU of Northern California Benefactors Dinner. The evening's program featured ACLU-NC Executive Director Abdi Soltani, Senior Staff Attorney Julia Harumi Mass, and renowned former ACLU-NC Staff Counsel Albert Bendich.



Photos by Susana Millman

TOP TO BOTTOM: Albert Bendich, Abdi Soltani; Venus and Narsai David; Mitzi Henderson, Jordan and Tony Novak.

## ACLUnews

THE PUBLICATION OF THE  
AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA

Membership (\$20 and up) includes a subscription to the *ACLU News*. For membership information call (415) 621-2493 or visit [www.aclunc.org](http://www.aclunc.org)

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## LETTER FROM THE EXECUTIVE DIRECTOR

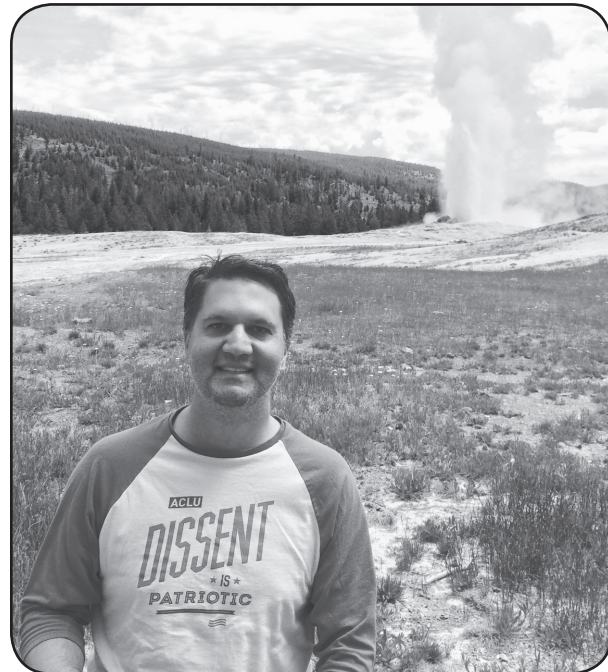
This is the summer vacation edition of ACLU News. My son Cyrus told me he heard from his teacher that Berkeley Unified is considering eliminating summer vacation. I really doubt his teacher said that, but that is how rumors start in the 4th grade, on the Internet and in the U.S. Congress. I told Cyrus not to worry about it. Given the ACLU's work on education equity, I explained the legitimate concerns about lost learning time in the summer, but assured him that his greatest protection against such a thing happening any time soon is the exorbitant cost.

He breathed a sigh of relief. With summer vacation saved from encroaching government, we continued packing our car for a three-week road trip to Yellowstone and Grand Tetons national parks.

On the trip I thought often about Ken Burns' documentary, where he makes the claim that the national parks are America's greatest idea. Well Mr. Burns, I beg to differ. I think the Bill of Rights takes that prize. Don't get me wrong, I love the national parks... and state parks... and neighborhood parks for that matter.

But if it were not for the Bill of Rights, and specifically the First Amendment, we wouldn't be able to speak up for the parks, or form associations to protect them, or petition the government to create a new one, or report on their condition in the press. If it were not for the Fourth Amendment, we couldn't sleep in our tent knowing that rodents may come in without a warrant, but the park rangers can't. Or that a bear may search our car on a hunch, but an officer needs something more—probable cause.

I can now hear the raging debate this letter has created. I have angered my environmentalist friends who will insist



Abdi Soltani in front of Old Faithful at Yellowstone National Park.

that without air, there is no speech.

I still love the parks. And I still have pride in my heritage. But I stand my ground. America's greatest idea is our protection of just that, our ability to formulate and communicate our ideas.

*Abdi Soltani*

Abdi Soltani  
Executive Director

## DESILVER SOCIETY LUNCHEON

On April 11, ACLU-NC supporters gathered in San Francisco to discuss government surveillance in the era of Edward Snowden's revelations. Senior Staff Attorney Linda Lye was joined by Associate Director Natasha Minsker and national ACLU staff attorney Alex Abdo, to share key surveillance issues happening in California and nationwide.



Photos by Gigi Pandian

TOP ROW: Harry Pavelis, Joseph Hammerquist, Yvonne Hammerquist; Kevin Kidd, Daniel Reimann, Margaret Ropchan. BOTTOM ROW: Natasha Minsker, Alex Abdo, Linda Lye; staff members Cori Stell and Susan Mizner.



# CHALLENGING DELAYS FOR ASYLUM SEEKERS

By Daisy Vieyra

Marco Antonio Alfaro Garcia has been in immigration detention for almost four months, because the U.S. government doesn't follow its own rules when it comes to people seeking protection in the U.S.

Garcia fears returning to El Salvador, where he was born, because he was twice brutally beaten by the police, and also fears retaliation because he provided information about a criminal group to Salvadoran prosecutors.

In January 2014, he was arrested by the Los Angeles police and within hours was turned over to immigration authorities. Once in immigration custody, he was told that because he had a deportation order from 2005, he would be returned to El Salvador.

Garcia told immigration officials he feared returning to his country of origin and submitted a request for asylum. The U.S. government conducted a "reasonable fear" interview with him to determine whether his claims deserved a referral to an immigration court. This process, which anyone with a prior deportation order has to go through, was supposed to happen within 10 days, but several months later, he has yet to get that "reasonable fear" determina-

WHAT IS SUPPOSED TO BE  
A 10-DAY PROCESS HAS  
TURNED INTO A SIX-MONTH  
DETENTION.

tion. Immigration officials have told him it could take up to six months before he does.

Unfortunately, Garcia's case is but one example of a systemic problem that unnecessarily keeps thousands of immigrants, who are fleeing persecution, in immigration

detention for months while they await their reasonable fear determinations. Because people who get positive "reasonable fear" determinations are not automatically eligible to be released from immigration detention, delays in receiving determinations only prolong the already lengthy period of detention asylum seekers face.


The ACLU and coalition partners filed a federal class action lawsuit against the U.S. government in April.

"Many of these individuals tried to make a life in their countries of origin after being deported, but faced persecution and threats, and now fear for their lives," said Julia Harumi Mass, senior staff attorney at the ACLU of



Garcia's children with a picture of their father.

Northern California. "While they wait in immigration jails, many have families in the U.S. or abroad who depend on them and may also be in danger."

The government must fulfill its obligation to give those seeking protection from torture or persecution in their countries of origin a timely process. 

Daisy Vieyra is a Communications Associate at the ACLU of Northern California.

## LEGAL UPDATES

### Byrd v. County of Fresno

The ACLU-NC filed suit against the City and County of Fresno over complete bans on the cultivation of medical marijuana. The bans are inconsistent with the Compassionate Use Act, enacted by California voters in 1996, which allows medical marijuana to be grown. The City and County also have banned all medical marijuana dispensaries.

The ACLU suit charges that the Fresno ordinances are invalid because they are pre-empted by state laws. The lawsuit seeks to invalidate the bans keeping sick residents from accessing medical marijuana.

Currently any Fresno resident in violation of the local ordinance can face steep fines, destruction of their medical marijuana, and jail time.

### Harman v. Ahern

The Alameda County Sheriff has a policy requiring that all women under age 60 who are arrested and booked into Alameda County jails submit to a pregnancy test, even if they are only in custody for a few hours. The tests are required even though they are not part of any comprehensive health screening.

The ACLU-NC filed a lawsuit to stop the practice of mandatory pregnancy tests in the County jails.

Requiring female arrestees to submit to mandatory pregnancy testing is a clear violation of state and federal law. The policy violates privacy rights, constitutes an unlawful search and seizure, and violates laws requiring jails to allow inmates to refuse non-emergency medical care. Plaintiffs reported feeling humiliated by the forced testing.

All women held in the County jail must have the opportunity to refuse a pregnancy test. San Francisco, for example, offers, but does not require pregnancy testing.

This lawsuit is part of the ACLU-NC's ongoing work to ensure that people held in jails and prisons are offered comprehensive reproductive health care, and that care is optional rather than forced.



The Alameda County Sheriff requires that all women under age 60 who are arrested and booked into Alameda County jails submit to a pregnancy test, even if they are only in custody for a few hours.


### Long Beach Police Officers Association v. City of Long Beach

In December 2010, Long Beach police officers shot and killed 35-year-old Douglas Zerby when they mistakenly believed the garden hose nozzle he was holding was a gun.

In response to concerns that the shooting might indicate deeper problems within the police department, the *Los Angeles Times* requested the names of the officers involved, under the California Public Records Act. The police department refused to release the names.

The police officers association asked the California Supreme Court to allow them to keep the officers' names confidential. The ACLU filed an amicus brief arguing that, under the California Constitution and the Public Records Act, the public has a right to the names of officers who shoot civilians. Transparency is a check on the power that police hold—and that is crucial for our democracy.

The California Supreme Court agreed with the ACLU, ruling that, when it comes to the disclosure of a peace officer's name, the public's substantial interest in the conduct of its peace officers outweighs, in most cases, the officer's personal privacy interest because the potential for abuse of power is far from insignificant.

There's no reason that shootings by police should be anonymous. The ruling rightly made clear that even general evidence that officers might face retaliation isn't enough to withhold information; there must be a specific threat of violence. 

Read more about the ACLU-NC's legal docket online at [www.aclunc.org/legal-docket](http://www.aclunc.org/legal-docket).

# 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 \_\_\_\_\_

## KNOW YOUR RIGHTS!

When you know what the law says, you can better protect yourself, your family, and your community. The ACLU of Northern California has created Know Your Rights guides across a range of issues. Find this and more at [www.aclunc.org/kyr](http://www.aclunc.org/kyr).

# YOUR RIGHTS AND THE POLICE

### If you are stopped for questioning, DO...

- DO give your name and the information on your drivers’ license. If you don’t, you may be arrested, even though the arrest may be illegal.
- DO remember you have the right to remain silent. Say “I want to remain silent.” You cannot be arrested or detained for refusing to answer questions. But it can look suspicious to the police.
- DO make sure the officer knows you do not agree to be searched (they might search you anyway, but make your opposition known). Say “I do not consent to a search.”
- DO ask “Am I free to leave?” If they say ‘yes,’ leave; if they say ‘no,’ DO ask to know why.

### If you are stopped for questioning, DON’T...

- DON’T disrespect a police officer. Although you have a constitutional right to do so, it could lead to your arrest.
- DON’T run away or physically resist a “pat-down” or search. Say “I do not consent to a search.”
- DON’T lie. Tell the police you don’t want to talk to them. Say “I want to remain silent.”
- DON’T discuss your citizenship or immigration status with anyone other than your lawyer.

### If you are stopped in your car, DO...

- DO show your license, registration, and proof of insurance when asked (you have to if you’re stopped while driving).
- DO keep your hands on the wheel and let the officer know what you are doing (“I’m going to reach for my registration now, officer...”).
- DO say “I do not consent to a search.”
- DO sign your ticket if you are given one. Otherwise, you may be arrested.
- DO take the blood, urine, or breath test, unless you are willing to risk your license being suspended.
- DO keep your car interior clear of unnecessary objects. It may give the police reason to search the car.

### If you are stopped in your car, DON’T...

- DON’T physically resist a search. Say “I do not consent to a search.”
- DON’T refuse to sign a ticket. You can be arrested for it.
- DON’T search for your license or registration until asked. It may look as if you are trying to hide something.
- DON’T disrespect the officer. Although you have a constitutional right to do so, it could lead to your arrest.

- DON’T attempt to bribe the police.
- DON’T play music loudly when the police walk up to your car.
- DON’T have any objects hanging from your rearview mirror. It may provide a pretext to pull you over.

### If you are arrested or taken to a police station, DO...

- DO tell the police your name and basic identifying information. But nothing else.
- DO say “I wish to remain silent” and “I want to talk to a lawyer.” They should stop questioning you after that.
- DO ask if you can park your car in a safe place or have a licensed driver take it away, to avoid towing or impoundment fees.
- DO make sure you get your 3 phone calls within 3 hours of getting arrested or immediately after being booked. You can call a lawyer, bail bondsman, relative, or any other person. If you have children under 18, you get 2 additional calls to arrange childcare.
- DO memorize phone numbers for three family members or friends who you can call.
- DO assume the police are recording your calls (except the call with your lawyer).

### If you are arrested or taken to a police station, DON’T...

- DON’T give them any information except for your name and basic identifying information.
- DON’T give explanations, excuses, or stories. Say “I wish to remain silent” and “I want to talk to a lawyer.”
- DON’T talk about your case on the phone; the police might be recording your phone calls (except those to your lawyer).
- DON’T make any decisions in your case without talking to a lawyer.
- DON’T discuss your citizenship or immigration status with anyone other than your lawyer.

*This guide is meant to offer some basic advice when interacting with police officers. This list applies to the state of California only. Be sure to consult a lawyer.*

*Download the full guide and find other Know Your Rights information at [www.aclunc.org/kyr](http://www.aclunc.org/kyr).*





# PROTECTING OUR PRIVACY BY PROTECTING OUR DATA

Imagine the government is constantly monitoring you: keeping track of every person you email or meet, every place you go, every item you buy, and more. And when you challenge them, they claim you have no right to expect this kind of information to be private, so they can collect as much of it as they want, even without a search warrant. Unfortunately, we now know that this scenario is quite real.

Government agencies ranging from the NSA to local police have taken advantage of uncertain legal protections for metadata. Metadata is descriptive information about your communications and activities: who you contacted, when you logged in, or where you were (but not what you said). So listening in on your actual phone call requires a warrant, but getting a list of every person you call may not.

The government sweeps up vast amounts of metadata about innocent Americans without a warrant. They claim that any information that could be seen by any third party—whether a curious stranger in a public space or the phone company that routes your calls—is not private. And if one bit of information isn't private, then vacuuming it all up is equally fair game.


But new technology demonstrates just how sensitive metadata can be, especially in large quantities: how friend lists can reveal a person's sexual orientation, shopping patterns can identify a pregnancy long before any visible signs, and location information can expose relationship troubles or unpopular po-

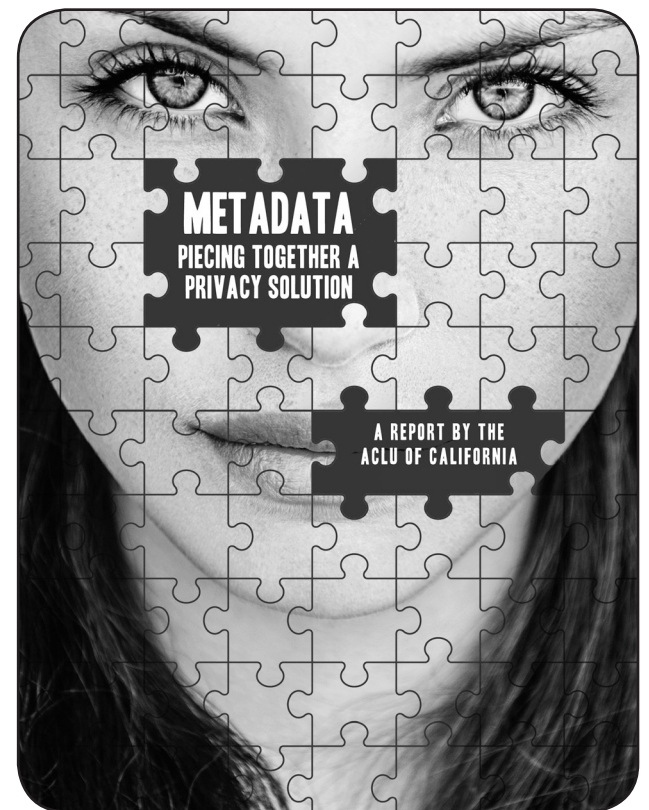
DATA ABOUT OUR  
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WHEREABOUTS,  
PURCHASES, AND  
ACTIVITIES CAN PAINT A  
ROBUST PICTURE OF OUR  
LIVES. IT NEEDS TO BE  
PROTECTED.

litical views or even subject individuals to theft or physical harm.

We've seen more and more evidence that government officials around the country abuse this data, from warrantless surveillance of members of religious communities to outright blackmail of patrons of a gay bar in Washington, D.C. All this because decades-old laws supposedly draw a line that wraps protection around content but leaves everything else out in the open.

The ACLU is fighting—in the courts, in Washington, and across the country—to make sure that all sensitive information is protected. We're suing to halt the NSA's unconstitutional dragnet surveillance programs. We're fighting to reform the Patriot Act and update federal privacy law. Our new report, "Metadata: Piecing Together a Privacy Solution," lays out the framework for future reform.

We need the freedom to act without fear that every action is being recorded. To protect our privacy and all of our fundamental freedoms, we need to add this new word to our civil liberties vocabulary and protect our metadata. 



## CHALLENGING SCHOOL DISCIPLINE THAT DISCRIMINATES


By Will Matthews

The ACLU of California is leading the charge in support of a bill moving through the state legislature that would help combat the school-to-prison-pipeline—the phenomenon in which students of color across the state and nation face disproportionate and overly-harsh discipline that pushes them out of school and into the criminal justice system.

AB 420, authored by Assemblymember Roger Dickinson, will help keep kids in school by making sure that students in the fifth grade and younger can't be suspended or expelled for the vague reason of "willful defiance." Because it is so subjective, the punishment has one of the most disproportionate racial impacts of any education policy.

Suspensions for the minor misbehaviors defined as "willful defiance" are a statewide epidemic, requiring a statewide solution. California schools issue more suspensions than diplomas every year, and far too many expulsions. Roughly half of all suspensions in California are for "willful defiance."

AB 420 would help fix that by changing how suspensions for "willful defiance" are handled in California. This bill would actually help students struggling with minor behavioral problems, benefitting entire schools.

Students who are suspended or expelled are five times more likely to drop out of school. They are also three times more likely to be involved with the juvenile justice system within one year. Keeping kids in school reduces violence, and ensures that all of California's schoolchildren have an equal opportunity to succeed. 

## VOTING RIGHTS

CONTINUED FROM PAGE 1

The ACLU is also leading voter protections on a national scale. The U.S. Supreme Court struck a major blow to voting rights in 2013 by invalidating a key provision of the 1965 Voting Rights Act—the landmark civil rights legislation that safeguards equal access to the ballot.

Since then, the ACLU has worked with Congress to introduce legislation that strengthens voter protections nationwide.

### Ensuring equal opportunity in California elections

Voting rights is just as much an issue here in California. Voter participation in California is dismal. Our state's voter registration rate is the fifth worst in the nation. More than 6 million eligible Californians are not registered to vote. The ACLU of California Voting Rights Project is intent on addressing barriers to voter registration. The project is engaging local, county, and statewide agencies, including Covered California, to ensure they provide voter registration opportunities to all who come in contact with them.

### A voice for all California voters


Under the California Constitution, all adult Californians are eligible to vote unless they are imprisoned or on parole for the conviction of a felony. Under the state's

Realignment Act, many people who had been convicted of non-serious, non-violent crimes were moved to new forms of community supervision. They should be eligible to vote, but Secretary of State Debra Bowen issued a directive to local elections officials in December 2011 stating that they are ineligible to vote.

Because of racial bias that ensnares more people of color in the criminal justice system, this unlawful disenfranchisement of tens of thousands of Californians has disproportionately impacted voting in communities of color.

The ACLU of California filed suit in March 2014, charging that Secretary of State Bowen unconstitutionally stripped tens of thousands of people of their right to vote.

In May, an Alameda County Judge agreed. The ruling in ACLU's favor stated "the plain language of the statute [the Realignment Act] suggests that the integration of adult felons into society would be facilitated by allowing" these individuals to vote.

The court's ruling will help ensure that in California, one of the nation's most fundamental rights—the right to vote—will be protected and not restricted. The Secretary of State has appealed the decision. It is unlikely that the case will be resolved before November's election. 

*Read more about the ACLU of California's Voting Rights Project at [www.acluca.org](http://www.acluca.org).*

STATES ACROSS THE  
COUNTRY ARE PUSHING  
TO MAKE IT HARDER  
TO CAST A VOTE. THE  
ACLU IS LITIGATING  
AND PRESSING FOR  
ELECTORAL REFORMS  
IN OVER A DOZEN  
STATES.

## LETTER FROM THE ACLU OF CALIFORNIA LEGISLATIVE DIRECTOR

As the members of the ACLU of California Legislative office sat down for our weekly check-in, we considered the number of bills on our office priority list. The common theme that runs through almost all of the legislation we are working on this year is racial justice.

Unfortunately, at the center of almost all of California's most backwards-facing laws, people of color are disproportionately and negatively affected. No matter the issue, be it voting rights, criminal justice or reproductive freedom (to name of a few of the ACLU's priority areas), equal opportunity is not guaranteed—so it is a principle we fight for everyday in Sacramento.

Behind the curtain of a law that prevents families from receiving an additional grant for children born into a family receiving CalWORKs assistance, lies a stereotype about women of color and a policy that systematically punishes deeply impoverished families, which are disproportionately comprised of racial and ethnic minorities. The ACLU is working to eliminate this law, the Maximum Family Grant rule, through ongoing efforts in the legislature. (See the article at right for an update about the MFG rule.)

What about a law that requires disparate penalties for two different forms of the same drug? SB 1010, would remove the crack/powder cocaine penalty disparity. This disparity has been shown to heavily penalize African Americans, who are more often arrested for crack offenses, as opposed to powder cocaine offenses.

Also consider SB 1111, which would prevent inappropriate involuntary transfers of students from traditional schools to community day schools. The practice of transferring students to community day schools amounts to

Stephanie Jaeger



modern-day segregation, as a majority of the students in community day schools are students of color.

Behind the laws and policies we address, a fundamental and destructive inequity emerges, which underscores the importance of repealing or reforming of current law. With support from ACLU members and staff across California, we continue to address racial justice by raising the curtain on inequity and advocating for change.

—Francisco Lobaco

*Sign up for email action alerts at [www.aclunc.org](http://www.aclunc.org) to tell your legislators to stand up for civil rights and liberties.*

## KEEPING THE STATE OUT OF WOMEN'S REPRODUCTIVE DECISIONS

By Shanelle Matthews

This year the ACLU of Northern California spotlighted Senate Bill 899, a repeal of the CalWORKs Maximum Family Grant Rule, in coalition with 80 reproductive justice and anti-poverty organizations.


California's MFG rule denies financial support to babies born while their families are receiving CalWORKs welfare grants.

This limits women's reproductive decisions and leads to government intrusion into families. It also leads to worse outcomes for children.

Twenty years ago when this rule was introduced, proponents argued that denying critical aid to newborn babies born into poor families would discourage poor women from having more children but according to recent research, they were wrong.

Ten thousand Californians signed a petition supporting the repeal of the MFG rule. Unfortunately, the Senate Appropriations committee failed to pass SB 899.

Unfortunately, the Senate Appropriations committee failed to pass SB 899, and an effort to repeal the MFG rule through the state budget was also unsuccessful.

But the many reproductive justice and anti-poverty advocates who worked hard to bring attention to this harmful and ineffective policy aren't going away. We will continue to fight until policymakers understand that making an investment in California's neediest families now means better outcomes for the future. 

*Read more at [www.aclunc.org](http://www.aclunc.org) about the ACLU-NC's work to repeal the harmful MFG rule.*

## THE DEATH PENALTY: HOW BAD DOES IT HAVE TO GET BEFORE WE CALL IT QUILTS?

By Ana Zamora

State secrecy. Botched executions. National outrage. In recent months, problems with the death penalty have been exposed in a way that that should give everyone pause.

In May, the National Academy of Sciences published a peer-reviewed study revealing that one in 25 people sentenced to death in the U.S. from 1973-2004 were innocent. The next day, Oklahoma botched Clayton Lockett's execution after refusing to disclose information about the drugs it would use.


These shocking events more than confirm what we at the ACLU have been saying for years: the death penalty is broken beyond repair and the only solution is to replace it with life in prison without the possibility of parole. From the initial trial to the execution chamber, it is riddled with insurmountable legal and practical problems. And all throughout, it is plagued with staggering costs to taxpayers. In California, these costs amount to \$130 million per year on a system that sends innocent people to their death and botches their execution when they get there.

These events also made me remember one of my heroes, Greg Wilhoit. In 1987 Greg was sentenced to death in

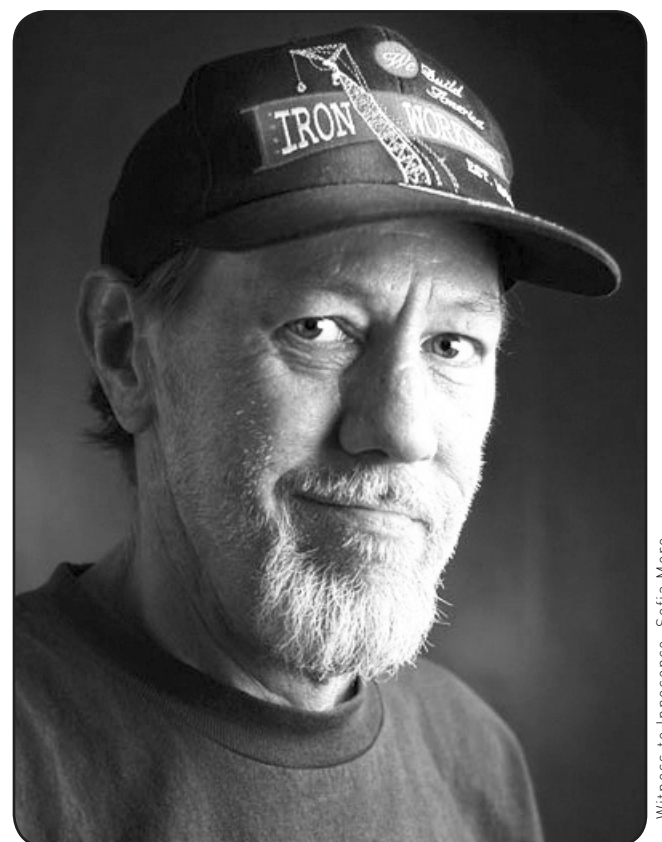
ONE IN 25 PEOPLE  
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Oklahoma. He languished on death row, fearing the day the state would walk him to his death. After five years, Greg's sentence was reduced and in 1993 he was acquitted and released from prison. Greg was innocent all along. He was the one in 25 people sentenced to death who didn't do it, and one of the 144 innocent people who have been lucky enough to win back their freedom.

The new innocence study concluded, "No process of removing potentially innocent defendants from the execution queue can be foolproof. With an error rate at trial over 4 percent, it is all but certain that several of the 1,320 defendants executed since 1977 were innocent."

We don't know how many innocent people have been executed, but we can guarantee that we never do it again by replacing the death penalty with justice that works for everyone. 

*Ana Zamora is the ACLU of Northern California's Death Penalty Project Director.*



Greg Wilhoit, 1954-2014,  
Oklahoma death row exoneree.

Witness to Innocence, Sofia Moro



# ACLU ACTIVISTS CONVERGE IN SACRAMENTO

By Shayna Gelender

What do you get when over 300 ACLU activists from every region of California converge in Sacramento for inspiration, education and advocacy? #ACLUCon. Also known as the ACLU of California Conference & Lobby Day.

In April these activists met with over 100 legislative offices to speak out against government controlling reproductive health choices of poor women (SB 899), disproportionate discipline of students of color (AB 420), and racially discriminatory drug sentencing and incarceration (SB 1010.)

By traveling to Sacramento and telling personal stories about these important issues, ACLU members bolstered and animated the daily work of our professional lobbyists and demonstrated the grassroots energy and power of the ACLU of California.

Fionnola Villamejor with the ACLU-NC North Peninsula Chapter spoke about the necessity of ACLU members lobbying at the Capitol.

“Education equity for all students is smart,” said Villamejor. “Rather than suspend or expel kids using costly, harsh, and foolish discipline mechanisms that experts agree do not work, supporting AB 420 to keep students in school was one of the highlights for me.”


In addition to hands-on lobbying, the conference fosters for peer-to-peer learning about effective community organizing

for civil liberties. “It was a great opportunity to connect with ACLU members from every region of California,” said Jay Laefer, a North Peninsula Chapter board member. “I learned a lot about what other activists are doing to protect civil liberties in their local communities”

Young adult activists showed up in force and received training and tools to continue developing their leadership and advocacy skills.

“Being an individual in my 20s, I cannot stress how important it is for young people to be involved in the relevant issues that the ACLU focuses on,” said Alanna Kamin.

Serena Aisenman with the ACLU-NC’s Alameda County Paul Robeson Chapter said, “I went into the experience a bit intimidated, but left with a new understanding of my power as a constituent.”

As you heard from Fionnola, Jay, Alanna, and Serena, the ACLU of California Conference & Lobby Day is singular experience. If you missed it this year, mark your calendar now for the 2015 ACLU of California Conference & Lobby Day: April 11-13, 2015. 

*Shayna Gelender is the Director of Organizing & Community Engagement at the ACLU of Northern California.*



Emery Jones



Emery Jones



Stacy Antonopoulos



Emery Jones

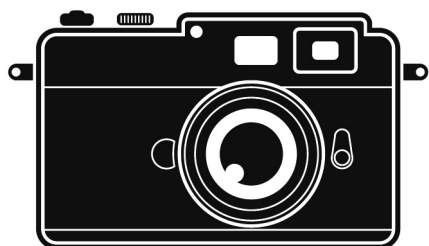
Fionnola Villamejor and Alanna Kamin from the North Peninsula Chapter; Central Valley activist Lionel Flores; ACLU-NC Executive Director Abdi Soltani and ACLU activists lobbying for school fairness.

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## ACLU CHAPTERS BRING DA AND SHERIFF'S ROLES INTO THE SPOTLIGHT

By Tessa D'Arcangelew

Given the opportunity, what would you ask your district attorney or sheriff? These elected officials are two of the most powerful offices in our communities. The sheriff runs the county jail system. The DA decides what charges to seek, including the death penalty. They both make important decisions about alternatives to incarceration.

These decisions go far beyond individual cases, impacting public safety, community health, and how our taxpayer dollars are spent. Yet the only way most voters come into contact with these officials is when they have a run in with the law. That changed this spring, with a series of ACLU chapter-sponsored candidate forums throughout Northern California that brought DA and sheriff candidates to the people.

The ACLU of Northern California's Santa Cruz, Fresno, and Sacramento County chapters, as well as a group of activists in Tulare, hosted candidate forums prior to the June 3 election. Peter Gelblum of the Santa Cruz County Chapter welcomed a packed house with over 100 attendees spilling out the doors.


“Together with seven other local organizations, the Santa Cruz Chapter asked the three sheriff candidates about important issues, such as unfair ICE holds for undocumented immigrants, privacy concerns with automatic license plate readers, and citizen oversight of law enforcement to end racial profiling

and excessive use of force,” Gelblum said.

These issues have a deep impact on the trust the community has in law enforcement, and ultimately the public safety that comes along with that trust.

The ACLU-NC's chapters play an important role in communities throughout Northern California by serving as public education resources. Without these forums, many voters might not have known the role their DA and sheriff play, what questions to ask about a candidate, or even that they could vote for the DA and sheriff.

“Our forum helped educate and engage community members around the social justice issues our new DA will have a huge hand in, so we can be sure to elect someone who will make decisions for a safer and more equitable community,” said Tess Ahmad of the Sacramento County Chapter.

It's time we shift gears on our criminal justice system, and that starts by empowering local communities through education so that when we head to the ballot box we are asking the right questions and voting for the candidates who speak for all of us. 

*Tessa D'Arcangelew is an Organizer at the ACLU of Northern California.*

# ASK THE EXPERTS!

## Technology & Surveillance in a Post-Snowden Era

**Linda Lye** and **Nicole Ozer** are legal stalwarts at the ACLU of Northern California, and for many years have advocated fiercely on behalf of privacy and free speech in our digital era. They are hard at work reining in the government's use of technology for surveillance. Linda Lye is a Senior Staff Attorney and Nicole Ozer is the Technology and Civil Liberties Policy Director.

### Q: Linda and Nicole, what is the landscape of technology and government surveillance today?

Nicole Ozer: It's been just over a year since Edward Snowden confirmed what we had long suspected—that the federal government has been engaged in widespread, warrantless spying. And that it has been improperly prying into the private emails, phone calls, and online activities of Americans.

Linda Lye: We've also seen that local law enforcement agencies here in Northern California, including Oakland and San Francisco, are using sophisticated and intrusive surveillance devices. Surveillance using new technologies poses new and complex threats to our Fourth Amendment rights and our privacy—whether or not we think we've done anything wrong.

### Q: What is a recent example of surveillance by local law enforcement using technology?

LYE: We helped put the brakes on Oakland's Domain Awareness Center (DAC), a rather ominously named surveillance hub. It was originally conceived as a way to monitor activity at the Port of Oakland, but in a classic example of mission creep, grew into a vast center that, as proposed, would have aggregated surveillance systems from all over the city. It would have included license plate readers and video cameras on city streets and in Oakland schools. Monitoring children in schools wouldn't make the port safer. But it would result in massive surveillance of innocent Oakland residents.

OZER: Until the ACLU and others pushed back, this sweeping system was on its way to being deployed and without safeguards to prevent misuse. Unchecked surveillance impacts all of us and is dangerous for a democracy.

LYE: Our advocacy, combined with local uproar, resulted in the City of Oakland agreeing to massively scale back the DAC.



Nicole Ozer and Linda Lye.

UNCHECKED SURVEILLANCE  
IS DANGEROUS FOR A  
DEMOCRACY.

The City will return the DAC's focus to the Port of Oakland instead of the entire city, and will build in important privacy protections.

### Q: Tell us about surveillance using Stingrays.

OZER: Stingrays are shadowy devices that are highly intrusive and indiscriminate. A Stingray mimics a cell phone tower so that it picks up the signals mobile phones send out to connect to the network. Police can use it to track a suspect by looking for their phone's signaling data to figure out where they live and where they go.

But since Stingrays gather information from all the mobile phones in a given area, individuals who may

not have any connection to a suspect could have their phone's information caught up in a Stingray's net.

LYE: As of right now, there are no rules in place governing use of these devices and some police are not getting a warrant to gather this sensitive location information. We have been tracking this issue closely.

### Q: License plate readers have been in the news. What are they and how are they being used?

OZER: Automated License Plate Readers, also called ALPRs, are cameras that can be mounted on police cars or in various locations like street corners. ALPRs are able to capture and retain tens of thousands of license plate images per minute. It's a tool that law enforcement can use to locate a stolen vehicle, for instance, but ALPRs could also be used to track a driver's movements. Because of the sweeping amount of information these devices collect and the lack of meaningful privacy protections in place, the potential for misuse and abuse is too high.

### Q: What can ACLU members do about these issues? How can we help?

OZER: ACLU members and activists can make a huge difference. Your voices are critical, especially for the elected officials in your community. Together, we can make sure that our agencies are transparent and accountable, our cities are properly balancing the potential costs and benefits of surveillance technology, and the rights of community members are respected.

*Join our email action list at [www.aclunc.org](http://www.aclunc.org) to be the first to take action on important surveillance issues.*

*Read the full Q & A with Linda Lye and Nicole Ozer online, including information about whether law enforcement in your community are using Stingrays and automatic license plate readers, at [www.aclunc.org/surveillance-qa](http://www.aclunc.org/surveillance-qa).*



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