

# ACLU WINTER 2008 news

BECAUSE FREEDOM CAN'T PROTECT ITSELF

VOLUME LXXII ISSUE 1

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## A CAUSE FOR CELEBRATION: THE BILL OF RIGHTS



MICHAEL WOOLSEY

Nane Alejandrez of the National Coalition of Barrios Unidos (left) enjoys the festivities next to Harry Belafonte, who received the Chief Justice Earl Warren Civil Liberties Award at the ACLU-NC's 34th annual Bill of Rights Day.

By Elaine Elinson

The air crackled with excitement on Dec. 9, as an overflow crowd filled the hall at the St. Francis Hotel in San Francisco to celebrate the ACLU of Northern California's 34th annual Bill of Rights Day. Many civil rights veterans—and today's youth activists—were in the audience, anxious to hear from the recipient of the 2007 Chief Justice Earl Warren Civil Liberties Award, Harry Belafonte.

But even before the renowned singer and civil rights leader took the stage, ACLU members and supporters were exhilarated to hear from Executive Director Maya Harris of the victories the affiliate has achieved this year. Harris relayed that the courage of our convictions has resulted in a landmark settlement on behalf of Native-American schoolchildren in the tiny mountain town of Bishop, Calif.; a victory for the free speech rights of middle school students in Napa; and a series of promising challenges against abuses of power by the Bush

Administration, including warrantless spying on Americans and secret flights that end in torture.

The audience was regaled with well-timed political zingers from Master of Ceremonies and National ACLU Board representative Aundré Herron, who also offered her rendition of "Day-O." ACLU-NC Board Chair Quinn Delaney presented the Dick Criley Activism Award to the Monterey County Chapter, calling the group a "model of vigilant and forceful civil rights advocacy on a local level."

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## SETTLEMENT STOPS ABUSE OF NATIVE-AMERICAN STUDENTS

By Rachel Swain

Christine Wilson knew something was wrong at Home Street Middle School in the Bishop Union Elementary School District. In this small town of 3,500, which borders the Bishop Paiute Reservation and sits 130 miles southeast of Yosemite, Wilson was sure that Native-American students like her own four children were being singled out for excessive punishment.

She was particularly concerned about the tactics of the police officer assigned to patrol the school, a School Resource Officer (SRO).

"I talked to adults, I talked to staff, I went to see the SRO and told him his tactics weren't working, but I wasn't getting

anywhere," said Wilson. "They said 'we don't have bias, we don't have a problem.'"

But even Wilson was shocked when the ACLU exposed the scale of a problem that was all too real. For every year between 2000 and 2006, Native-American students were disciplined

CONTINUED ON PAGE 5



## LETTER FROM THE EXECUTIVE DIRECTOR



Dear Friends,

As we welcome this New Year, I can't help thinking about that traditional image of the pudgy cartoon baby, draped with the "Welcome 2008" banner and that sassy look of daring and anticipation on his face.

That image of an audacious youth kept coming into my mind as we prepared stories for this issue of the ACLU News. You will read about Native American children who challenged racial profiling and police abuse in their rural school, and spunky elementary students in Napa who stood up for their rights to free expression. You will learn about college and law school students who are launching ACLU clubs on their campuses.

We are especially pleased to share with you excerpts from the exposé written by our own Friedman Project youth activists about their eight-day investigation of the myths and truths about military recruitment. Traveling from San Francisco's Swords to Ploughshares to San Diego's Camp Pendleton Marine Base, these 23 high school students spoke with women of color veterans, formerly homeless veterans, military families and conscientious objectors. I am sure that you will be as moved as I was by their vibrant poetry, their thoughtful reflections and their powerful commitment to, as they put it, "educate ourselves so we can educate others and make a difference."

As you will see from the story about our exhilarating Bill of Rights Day Celebration, youth were center stage at that event as well. Our Lola Hanzel Courageous Advocacy Award winner, college student Kiran Savage-Sangwan, expressed her deep appreciation to the ACLU, but also encouraged us to take even bolder stands, especially on behalf of immigrant youth. It was thrilling to hear our Chief Justice Earl Warren honoree Harry Belafonte speak about his faith in today's youth, and his active organizing efforts to bring together African American, Latino, Native American, Asian American and white young people in a Gathering for Justice. His strong belief in their capacity matched my own.

And we need them now more than ever.

Other stories in this issue explain how the federal government is expanding and perfecting methods of widespread surveillance of us all, how the government claims "national security" would be jeopardized if it responded to ACLU lawsuits seeking to halt extraordinary rendition and torture, and how the government's stepped up immigration raids have had a devastating impact on children, families and communities. These are challenges that will continue to require our attention, resources and tenacity in the coming years.

We are fortunate that so many talented, committed young people have joined the fight for civil liberties. Armed with chutzpah and hope, they are the best insurance we could ever want as we struggle to protect our rights in these difficult times.

Maya Harris  
Executive Director

## LAWYERS COUNCIL CIVIL LIBERTIES BRIEFING LUNCHEON

Members of the Lawyers Council steering committee gathered at Boulevard Restaurant on Nov. 14 for the 2007 Civil Liberties Briefing Luncheon, an annual gathering attended by attorneys who play a significant role in raising funds to support the legal work of the ACLU-NC. The luncheon marks the launch of an intensive fund-raising campaign in which teams of dedicated and perseverant lawyers appeal to their peers to contribute to the defense of civil liberties and fundamental rights. The luncheon is also an opportunity for ACLU-NC staff attorneys to review historic ACLU cases and introduce emerging civil liberties issues.



PHOTOS BY JEFF VESSELS

Left to right: Francisco Lobaco, ACLU California Affiliates Legislative Director and Donna Brorby, former ACLU-NC Board member; Sandy Holmes, ACLU-NC Senior Development Associate, Steve Vettel, Lawyers Council Co-chair, and Ruth Borenstein, Lawyers Council executive committee member; guest speaker Lucas Guttentag, Director of the National ACLU Immigrants' Rights Project.

For more information about the Lawyers Council, please contact Sandy Holmes at sholmes@aclunc.org.

## NEW STAFF AT THE ACLU-NC

ACLU-NC's new Communications Director, **Laura Saponara**, brings 10 years experience as a strategic communications consultant, trainer, and writer for nonprofit organizations, labor unions, and philanthropic foundations, including the Women's Foundation of California, the SPIN Project, and the American Federation of State, County and Municipal Employees. Prior to joining our staff, Laura worked on a national project, funded by the Ford Foundation, focused on amplifying the voices of grassroots activists, policy advocates, and legal scholars who work to transform the media landscape in the interests of diversity and democracy. She holds a masters degree in media studies from the University of Texas in Austin and has taught at UC Davis. Laura has worked on human rights projects in Mexico City, El Salvador, and Puerto Rico.

Prior to becoming our new Racial Justice Project Director, **Diana Tate** was a staff attorney with the Lawyers' Committee for Civil Rights, leading its African American Agenda Project and supervising the Legal Services Clinic and Education Equity Project. Her practice included litigating race discrimination cases and providing legal counsel to community groups advocating for racial equality and social justice. While at the Lawyers' Committee, she also collaborated with the ACLU-NC on various cases, including opposing San Francisco's gang injunctions and supporting the Berkeley Unified School District's integration plan. Tate earned her Juris Doctorate at Georgetown University Law Center, and began her legal career as a media and litigation associate at the law firm of Davis Wright Tremaine, LLP.

## BOARD ELECTION RESULTS

### CONGRATULATIONS TO ACLU-NC'S NEW BOARD MEMBERS

Welcome to new Board members Farah Brelvi, Christy Chandler, and Clara Shin, who were recently elected by the general membership. Incumbent Board members Cherri Allison, Karen Carrera, Lisa Honig, Goodwin Liu, Enrique Ramirez, Marsha Rosenbaum, and Ken Sugarman were re-elected for a second term. We thank outgoing at-large Board members Bob Capistrano, Susan Freiwald, and Guy Wallace for their valuable contributions to our work and mission.

### NEW OFFICERS AND EXECUTIVE COMMITTEE MEMBERS

At its meeting on Dec. 13, 2007, the ACLU-NC Board of Directors elected Ron Tyler as its new Chair. Outgoing Chair Quinn Delaney was installed as the new Development Committee Chair, and Linda Lye was elected Legal Committee Chair. Incumbent officers Lisa Honig and Nancy Pemberton will continue in their posts as Legislative Committee Chair and Secretary/Treasurer respectively. No new members were elected to the Executive Committee.

*Correction: In the Summer 2007 edition of ACLU News, we featured a photograph of Lorrain Taylor, whose twin sons Albade and Obadiah were murdered, and who now runs a support group for victims of violent crime and is a member of California Crime Victims for Alternatives to the Death Penalty. In the caption, we incorrectly identified Taylor as LaShai Hickman. The editor of ACLU News sincerely regrets this error.*

## ACLUnews

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# LEGISLATIVE GAINS AND SETBACKS IN 2007

By Vivek Malhotra

The past legislative year yielded significant victories for the ACLU, but also some notable disappointments, particularly in the area of criminal justice reform.

First, the good news: Gov. Arnold Schwarzenegger signed five of our top priority bills into law, scoring wins for educational equity, civil rights, reproductive rights, and immigrants' rights.

Public school students throughout California will be able to make more informed choices about college and career opportunities because of **SB 405**, a bill sponsored by the ACLU and authored by Sen. Darrell Steinberg (D-Sacramento).

The measure ensures that middle and high school counselors provide individualized review of students' career goals, and inform them of college eligibility requirements and career technical education options in their schools.

An astonishing number of kids in our public schools—especially students of color, low-income students, and English-language learners—lack even this basic information about opportunities to help them succeed in life after graduating from high school. **SB 405** helps to level the playing field.

After vetoing a similar bill in 2006, Gov. Schwarzenegger signed **AB 629** into law in 2007. The bill, sponsored by the ACLU and authored by Assemblywoman Julia Brownley (D-Santa Monica), establishes standards for state-funded, community-based pregnancy prevention programs in California. Specifically, it ensures that these programs are medically accurate and objective, age-appropriate, culturally and linguistically appropriate, and taught by knowledgeable instructors.

With the enactment of **AB 102**, also sponsored by the ACLU and authored by Assemblywoman Fiona Ma (D-San Francisco), state government agencies and officials must respect the family name choices of married couples and domestic partners and reject the antiquated custom of only recording a woman's change in name after marriage.

**AB 102** was a direct response to an ACLU of Southern California case in which a young man was denied the ability to take his wife's last name upon marriage without officially petitioning to change his name in the courts. The bill codifies name change rights upon marriage for both men and women and extends these same options to same-sex domestic partners.

California became the first state in the country to expressly preclude anti-immigrant housing ordinances by local governments, with the governor's signing of **AB 976**. The bill, by Assemblyman Chuck Calderon (D-Whittier), was a collaborative effort between apartment owners and major housing and immigrants' rights advocates to turn back the tide of anti-immigrant sentiment sweeping communities around the nation. The ACLU has led efforts to fight such ordinances through litigation around the country.

We helped broker a bill that garnered broad-based support from business and civil rights communities and offered meaningful protection from discrimination for immigrants. Specifically, the new law prohibits local cities and counties from enacting ordinances requiring landlords to check the immigration or citizenship status of their tenants. It also prohibits landlords from doing this on their own accord.

Now, the bad news. For the second year in a row, the governor vetoed a trio of bills to combat wrongful criminal convictions. **SB 511**, by Sen. Elaine Alquist (D-San Jose) would have required the electronic recording of police interrogations in homicide and serious felony cases. **SB 609**, by Sen. Gloria Romero (D-Los Angeles), would have required the corroboration of testimony from in-custody informants. **SB 756**, by Sen. Mark Ridley-Thomas (D-Los Angeles), would have urged local police departments to adopt guidelines for police line-ups and photo arrays.

All three measures were sponsored by the California Commission on the Fair Administration of Justice, with strong support from the ACLU, and passed the Legislature with bi-partisan support.

Also falling victim to the governor's veto pen was **AB 43**, by Assemblyman Mark Leno (D-San Francisco),

to end marriage discrimination against same-sex couples in California. First passed by the state legislature in 2005, the bill was approved once again by state lawmakers in 2007.

A few ACLU-sponsored bills did not make it to the governor's desk but we anticipate taking them up again in 2008. These include **AB 1648**, by Assemblyman Leno, and **SB 1019**, by Sen. Romero, two measures to restore public access to police misconduct records, following the devastating state Supreme Court decision in *Copley Press v. Superior Court*. **SB 30**, by Sen. Joe Simitian (D-Palo Alto) would establish privacy safeguards before radio frequency identification (RFID) tags can be placed in government-issued personal identity documents.

## LOOKING AHEAD

We embark on the second half of the 2007-08 legislative session knowing that those issues deemed controversial last year will probably face even more daunting odds in 2008, a hotly contested presidential election year, with voters going to the ballot box statewide an extraordinary three times—in February, June, and November.

Election years traditionally make lawmakers more cautious, and that rarely bodes well for the courageous stands we often ask them to take, whether it be on reforming the criminal justice system or making positive social change, like marriage equality.

The outlook for meaningful policy reform in 2008 looks even bleaker as the state faces an economic downturn and the budget deficit soars upwards of \$14 billion. The governor has announced his intention to call a "fiscal emergency" at the start of the new year.

Under authority given to him by the voters when they passed Proposition 58 in 2004, the governor can call state lawmakers into a special session when revenues run "substantially below" those anticipated at the time of the budget's signing. Legislators then have up to 45 days to pass a bill that addresses the budget problem.

If they fail in this charge, they cannot pass other bills or adjourn until they pass a budget solution bill. Legislative leaders have also announced that bills with even nominal price tags will be held in state fiscal committees, without making it to the floor for a vote before the full body.

All this makes the fate of non-budget related legislation uncertain in 2008. For the ACLU, priorities are likely to include challenging budgetary cuts that threaten access to safety-net and other programs for vulnerable communities, and reviving efforts to restore public access to police misconduct records and hearings that was shut down by the Supreme Court's *Copley* decision, among other issues.

Given the shape of political debates leading up to the election year, we can expect renewed assaults on immigrants in the state, and the ACLU will continue to lead in holding the line on efforts to deprive them of due process, equal protection, and other constitutionally guaranteed rights.

Implementation of the deeply flawed federal REAL ID Act is likely to rear its ugly head in California next year, and the ACLU will closely monitor attempts to threaten the privacy rights of Californians through state legislation. ■



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When you're ready to donate, if you have relatives or friends with vehicles to donate, or if you have any questions, simply contact Denise Mock at (415) 621-2493 x334 or [dmock@aclunc.org](mailto:dmock@aclunc.org). ■

# SCORES OF CIVIL RIGHTS GROUPS ASK CA SUPREME COURT TO ALLOW SAME SEX COUPLES TO MARRY

An unprecedented array of civil rights and religious groups, municipal governments and legal scholars joined forces in the fall months of 2007 to file amicus briefs arguing that the law that prevents same-sex couples from marrying is unconstitutional. Many of the arguments draw on legal precedents achieved during the Civil Rights Movement, and on the First Amendment principle of separation between church and state.

Writing for the California State Conference of the NAACP, longtime civil rights advocate Jon B. Eisenberg asked the Court to apply its 1948 decision ending laws that banned interracial marriage. The Howard University School of Law Civil Rights Clinic cited similarities between past defenses of laws against interracial marriage and current arguments against marriage for same-sex couples. More than 60 Asian Pacific Islander groups recounted anti-miscegenation laws against their communities in California.

**MORE THAN 400 RELIGIOUS GROUPS AND CLERGY HAVE ARGUED THAT RELIGIOUS FREEDOM AND SEPARATION OF CHURCH AND STATE REQUIRE EQUAL ACCESS TO CIVIL MARRIAGE FOR SAME-SEX COUPLES.**

More than 60 Asian Pacific Islander groups, including the National Asian Pacific American Bar Association, joined an additional brief describing the long history of discrimination against API communities with regard to marriage in California.

In another brief, the Mexican American Legal Defense and Education Fund, the National Black Justice Coalition, and numerous other civil rights organizations argued that California courts should subject laws that discriminate on the basis of sexual orientation to the strictest level of constitutional review.



Marvin Burrows (left) and the late Bill Swenor walk out of San Francisco City Hall after their marriage in 2004, the year Mayor Gavin Newsom authorized the issuance of marriage licenses to same-sex couples.

Amicus briefs were filed in several cases consolidated under the title *In re Marriage Cases*. The plaintiffs are 15 same-sex couples and two nonprofit organizations, Equality California and Our Family Coalition. The couples come from throughout the state and from all walks of life. Many are raising children together.

The City of San Francisco is also a plaintiff in the consolidated cases. At least 19 California cities and counties—including Sacramento, Los Angeles, Long Beach, San Diego, Oakland,

and San Jose—have filed briefs in support of San Francisco's position.

Since the case was originally filed, more than 400 religious groups and clergy have argued that religious freedom and separation of church and state require equal access to civil marriage for same-sex couples. Among the chorus in the most recent round of amicus briefs are the Unitarian Universalist Association of Congregations, General Synod of the United Church of Christ, Union for Reform Judaism, the Buddhist organization Soka Gakkai International-USA, Universal Fellowship of Metropolitan Community Churches, and California Council of Churches.

The couples, Equality California, and Our Family Coalition will be represented at oral arguments on March 4 by Shannon Price Minter, Legal Director of the National Center for Lesbian Rights, which is serving as co-counsel with Lambda Legal, the American Civil Liberties Union, Heller Ehrman LLP and the Law Office of David C. Codell.

For updates on the March 4 hearing and to see video clips of some of the couples whose immovable commitment is forging this historic shift, visit the ACLU-NC website: [www.aclunc.org](http://www.aclunc.org). ■

A complete list of the organizations and legislators that filed amicus briefs arguing for the right of same-sex couples to marry is available at: [http://www.aclunc.org/docs/LGBT/Amici\\_in\\_Support\\_-\\_In\\_re\\_Marriage\\_Cases.pdf](http://www.aclunc.org/docs/LGBT/Amici_in_Support_-_In_re_Marriage_Cases.pdf)

## LEGAL BRIEFS

### NAPA SCHOOL DRESS CODE LAWSUIT SETTLED

Five Napa families and the Napa Valley Unified School District in December settled a lawsuit against Redwood Middle School's "Appropriate Attire Policy," recognizing students' constitutional rights to freedom of expression.

The ACLU-NC filed the lawsuit in March 2007, after student Toni Kay Scott was removed from class for wearing a denim skirt and socks with the Winnie-the-Pooh character Tigger.

Any future dress codes limiting colors, fabrics, or patterns will only be implemented as part of a school uniform program that allows parents to opt out. The district will not ban words or pictures that are protected under California free speech rights. The district will remove references to dress code violations from the student plaintiffs' records and allow all other Redwood students in the last six years to request similar removals.

Napa County Superior Court Judge Raymond Guadagni had previously issued a preliminary injunction on Redwood's dress code in July 2007. The district appealed to the California Court of Appeal, which referred the case to mediation in which all parties participated in December 2007. Along with ACLU-NC staff attorneys, plaintiffs were represented by Thomas V. Loran III and Sharon O'Grady from Pillsbury Winthrop Shaw Pittman LLP.

### STATE SUPREME COURT TO REVIEW 49ERS PAT-DOWNS

California's Supreme Court has agreed to review a civil rights challenge against the San Francisco 49ers for "pat-down" searches of ticket-holders entering Monster Park for football games. The National Football League ordered the searches at all games as an anti-terrorism measure starting in 2005.

The lawsuit was filed by the ACLU-NC in 2005 on behalf of two 49ers fans, Daniel and Kathleen Sheehan of Danville, Calif. We argue that the searches amount to an invasion of privacy. In July 2007, the First District Court of Appeal disagreed 2-1, stating that fans effectively waived their expectations of privacy when they attended sports events knowing they would be searched at the entrance. Justice Maria Rivera dissented, saying the ruling gave the 49ers and other private businesses too much leeway to trample on privacy rights. The Sheehans appealed to the state Supreme Court, which is expected to review the case in the coming months.

### ACLU FIGHTS GOV'T "STATE SECRETS" CLAIM IN RENDITION SUIT

In a December 2007 filing, the ACLU argued that the U.S. government improperly invoked the "state secrets" privilege in its quest to seek the dismissal of our lawsuit against Boeing subsidiary Jeppesen Dataplan, Inc. U.S. District Judge James Ware granted the government's motion to dismiss the suit on Feb. 13, 2008.

Our lawsuit charges that Jeppesen knowingly gave flight planning and logistical support to the CIA for its "extraordinary rendition" program. The U.S. government argued that litigation would harm national security by revealing secret information. We argued that the information needed in the case, including details of the rendition program, has already been cited in documents, reports, and news stories that are publicly available.

The ACLU is in the process of filing an appeal of the district court's decision with the Ninth Circuit.

The U.S. Supreme Court last reviewed the "state secrets" privilege 50 years ago. In recent years, the government has used it with increasing regularity to try to justify secrecy and evade public accountability for domestic wiretapping, torture, and other breaches of U.S. and international law.

The Supreme Court recently refused to review the "state secrets" issue in another ACLU case, the lawsuit of Khaled El-Masri, a German citizen who was kidnapped and secretly flown to a CIA "black site" prison in Afghanistan where he was interrogated and tortured.

In the Jeppesen case, the ACLU is representing five rendition program victims—Binyam Mohamed, Abou Elkassim Britel, Ahmed Agiza, Mohamed Farag Ahmad Bashmilah, and Bisher Al-Rawi—whom the CIA kidnapped and secretly moved to U.S.-run foreign prisons where they were questioned and subjected to torture. ■

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# NEW SETTLEMENT WILL SAFEGUARD STUDENTS' CIVIL RIGHTS

CONTINUED FROM PAGE 1

at more than double their percentage in the population—a much higher rate than their peers. During the same period, Paiute children constituted 17 percent of the student body, but 67 percent of those suspended for being “disrespectful or argumentative.”

Now, thanks to a landmark out-of-court settlement with the ACLU-NC, the Bishop Union Elementary School District is working to remedy the situation with a comprehensive plan that includes staff training, student development, statistical reporting, and the removal of the SRO from the district's schools.

It was a simple bandana that brought the simmering tensions to a boil. On Oct. 11, 2005, the SRO demanded that Thomas, an eighth-grader, hand over the bandana he was wearing, citing the school's dress code. Thomas put the scarf in his pocket but refused to give it to the SRO because it was his grandmother's.

That's when the SRO handcuffed Thomas and threw him to the ground.

At the time of the incident, five students who were near Thomas on the playground began shouting that the treatment wasn't right. Four of the students were Native American and one was white. The white student asked the SRO why he was singling out the Native-American children. The SRO responded by throwing her to the ground as well.

Soon, the SRO had also forced a handful of other students, including Wilson's 12-year-old daughter, to the ground. One child briefly lost consciousness.

After school administrators dispersed the crowd, they slapped immediate suspensions on all the students involved. The school didn't conduct an investigation and didn't respond to inquiries from parents who are members of the Paiute Tribe.

“They hoped it would just go away,” said Wilson.

Determined to expose the incident and draw attention to the school's complicity, Wilson contacted the ACLU-NC.

The ensuing investigation, conducted by the ACLU and cooperating attorneys at Morgan, Lewis & Bockius LLP, uncovered a deeply troubling trend.

“The Oct. 11 incident was not isolated,” said Jory Steele, Managing Attorney of the ACLU-NC. “It was simply the most recent incident in a long, troubling history of harsh disciplinary treatment against Native-American students by school officials.” Among the findings:

- From 2000 to 2006, suspension of Native-American students occurred disproportionately for discretionary offenses like “defiance,” in comparison with concrete offenses such as carrying a weapon.
- From 2002 to 2003, Native-American students were approximately 16 percent of the population yet incurred almost 43 percent of the suspensions and expulsions.
- From 2002 to 2003, the only sixth-graders suspended at Home Street Middle School were Native American.

Research by Russell Skiba, Professor of Counseling and Educational Psychology at Indiana University, reveals that when researchers measure which students are disciplined at schools and how, racial bias is prevalent.

“This case is reminiscent of patterns throughout the country for children of color, especially African Americans,” explained Skiba, adding that to date, few researchers have examined the disproportion-



FOR EVERY YEAR BETWEEN 2000 AND 2006, NATIVE-AMERICAN STUDENTS WERE DISCIPLINED AT MORE THAN DOUBLE THEIR PERCENTAGE IN THE POPULATION—A MUCH HIGHER RATE THAN THEIR PEERS.

ate discipline of Native-American children. The data collected by the ACLU is extremely useful, says Skiba, because it will serve as a baseline for measuring improvements in the future.

The ACLU-NC also alleged that the school district violated the California Education Code by suspending students for minor transgressions like chewing gum, which is not a suspendable offense in any case, and that it violated the U.S. and California Constitutions and the Civil Rights Act by acknowledging the pattern of disparate treatment but failing to address it.

As a result of its punitive approach, the district experienced unusually high attrition rates. In 2006, half of Native-American sixth-graders and close to a quarter of eighth-graders were in continuation school. Statistics show that continuation schools are in many cases an educational dead end for youth, since many drop out before graduating or graduate without the classes necessary to go to college.

Faced with this data, the district's new Superintendent, Barry Simpson, was keen to resolve the issue without litigation. On Sept. 12, 2007, the Bishop Union Elementary School

District signed a far-reaching settlement with the ACLU-NC, enforceable in the courts until 2012. The settlement includes the following directives:

- *Removal of the SRO from all the district's schools;*
- *Staff Development.* The district will implement a professional development program, including instruction on the anti-discrimination and harassment policies, methods for increasing respect for different cultures and Native-American cultures in particular, and implementing culturally appropriate curriculum;
- *Student Development.* Each school will provide new instruction for students designed to facilitate their understanding of and respect for students from all cultural backgrounds, and to integrate conflict resolution into students' daily lives;
- *Statistical Reporting and Evaluation.* The district will monitor the schools' record keeping to ensure that data is recorded and maintained regarding school discipline, including information about the race and grade level of students who are disciplined. The district will also be required to keep a written record of complaints of physical and verbal harassment or discrimination of students.
- *Expungement of Records.* The district will clear improper suspensions from students' records.

“I'm pleased to be part of a settlement agreement that creates a positive result for the students in our school district,” said Simpson. “Resources that would have been expended in litigation can now go to building programs that will ensure a safe learning environment for all students.”

“THIS CASE IS REMINISCENT OF PATTERNS THROUGHOUT THE COUNTRY FOR CHILDREN OF COLOR, ESPECIALLY AFRICAN AMERICANS.”

—Russell Skiba, Professor of Counseling and Educational Psychology at Indiana University

Attorneys for the families praised Simpson's constructive approach. “The entire community of Bishop will benefit from his commitment,” said Nicole Diller, an attorney with Morgan Lewis.

As for Wilson, she is cautiously optimistic that she will be able to raise her youngest kids in a district that is safer and more equitable.

“I've already felt the atmosphere change,” she said. “I'll wait and see, but I'm hopeful that the statistics will look more positive for our kids, not just for discipline but for education as well.”

Reflecting on progress he has seen among schools in Indiana, Skiba emphasizes that the presence of a new superintendent in Bishop—one who has already demonstrated a willingness to engage in dialogue—may prove promising.

“Where there are leaders in districts who are willing to consider that there may be conscious or unconscious bias that needs to be addressed and changed, that's where we see progress,” Skiba said. “In order to resolve issues that involve race, we have to be willing to directly confront and address issues of race.” ■

Rachel Swain is a former Communications Director of the ACLU-NC.



Bishop, California.

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# WALKING A PATH TO JUSTICE: HARRY BELAFONTE ON CELEBRITY, TENACITY AND CIVIL RIGHTS

It is not an easy thing to interview one's childhood idol. The first record my Dad ever brought us was Harry Belafonte's—and we memorized every word. It's even more challenging when that childhood idol remains an idol way into adulthood. Not as much for the singing, although those calypso songs continued to be a soundtrack for our lives, but for his courage and tenacity in fighting for social and racial justice. The person who as Henry Louis Gates observed, “was radical long before it was chic, and remained so long after it wasn't.” With a warmth like “the sun shining daily on the mountain top,” and a penetrating insight gleaned from a lifetime as a progressive black performer and activist, Belafonte shared his views on the civil rights movement, internationalism, and what can be done to give voice to the struggles of today's youth.

—Elaine Elinson

*Elaine Elinson:* You have inspired so many people both with your art and your political work. Who inspired you?

*Harry Belafonte:* The real influences on my life growing up were Paul Robeson and Dr. [W.E.B.] Du Bois. I served in the United States Navy as a munitions loader during World War II, and when I came out of the Navy, I decided to try my hand at theater. We did a play at the American Negro Theater, an adaptation of Sean O'Casey's “Juno and the Paycock,” about the Irish Rebellion. It was a small theater in the basement of the Schomburg Library, the audience was no more than 60. But the cast had Sidney Poitier, Ossie Davis, and Ruby Dee—we were all youngsters.

## BILL OF RIGHTS DAY CONTINUED FROM PAGE 1

Delaney also introduced Lola Hanzel Courageous Advocacy Award honoree: Kiran Savage-Sangwan, an ACLU-NC Friedman Project graduate, who as a Davis High School student, organized the First Transgender Day of Remembrance and empowered students to opt out of campus military recruitment. Savage-Sangwan, now a college organizer with the New York Civil Liberties Union, challenged the ACLU to take a leadership role in fighting for the passage of the DREAM [Development, Relief, and Education for Alien Minors] Act, which would allow undocumented high school graduates to gain legal residency, allowing them to continue their schooling and careers.

Savage-Sangwan shared the stage with Friedman youth activists and spoken word artists Shamar Theus and Connie Castillo, whose poetry brought the house down. In a vibrant, defiant voice, Castillo spoke of places where “cobwebs cover more stories than the 10 o'clock news” and of the “empty school desks of children who died too soon.”

It was a perfect segue for Nane Alejandrez of the National Coalition of Barrios Unidos to present the Chief Justice Earl Warren Civil Liberties Award to Harry Belafonte amid a sustained standing ovation. Belafonte was honored with the ACLU-NC's highest award for his lifetime of work for civil rights and his continuing efforts to halt the disproportionate incarceration of youth of color. ■

Early on, Paul Robeson came. We were stunned. Afterwards he came to talk to us; he was very generous. After meeting him, I became more politically engaged with labor unions and the black institutions that were just forming.

I met W.E.B. Du Bois through Mr. Robeson. When he ran for the Senate [in 1950] I was one of his base supporters and organizers. When Mr. Du Bois was arrested [on charges of being an unregistered foreign agent, because he sent a petition opposing military intervention in Korea], they put him in chains down in Foley Square in New York for treason and sedition. I had a lot of passion for the political work that I did, but after working with Du Bois, I became relentless in my commitment to confronting the system.

*EE:* In the U.S., artists who participate in political struggles are often criticized for doing so—has this happened to you?

*HB:* I went to the New School and studied theater under a great director who had fled the Nazis. My classmates were Walter Matthau, Marlon Brando, Rod Steiger, Bea Arthur. We were introduced to Sartre, Brecht...

But when I completed my course of studies, I couldn't find work as an actor—so I had to get involved with singing. I opened at the Village Vanguard in New York. Robeson came and told me something that became very central to my life. He said, “Get them to sing your song, and they'll want to know who you are.”

That was very prophetic. When the “Banana Boat Song” hit some years later, it had a huge global reach -- even without the technology we have today. People talked about it as the first album to sell a million copies, but what really attracted me was the fact that the whole world was singing it—and that constituency would become very important in my social and political engagement.

*EE:* Did you have a sense of that at the time?

*HB:* Yes, because of Paul Robeson. He was a great role model. The whole world sang his song. He spoke fluently 14 languages: Russian, Chinese, Swahili, French, and Italian...

At that time, McCarthyism had blacklisted a number of us. People know the story of what happened to the Hollywood Ten, but very few people know what a lot of black artists went through. We were already on the low end of the employment scale, so the House Un-American Activities Committee and these vigilante groups required that we mobilize and organize.

*EE:* During the civil rights movement, you fought against red-baiting and warned leaders not to succumb to political smears against Bayard Rustin and Stanley Levinson. Why?

*HB:* That was from Paul Robeson, too. We had black men that fought against fascism in Spain in the Lincoln Brigade, and in the Second World War, with expeditionary forces from Africa and the Caribbean on the side of the allies—fighting for democracy and ending racism.

At the end of the war, we came back with expectations that the Post-War period would be very much different for black people and people of color.

But everybody went back to business as usual.

So all over the world people of color rose up, not just in the United States, but Vietnam, Africa, China. I did fundraising in support of the African liberation movements. I eventually hooked up with Mandela; I brought African singers to the United States, including Miriam Makeba and Hugh Masekela—put him through Manhattan School of Music.

There was a global kind of canvas on which we all were intertwined and engaged in each other's experiences.

*EE:* You were often called on by the civil rights movement to be a mediator, to bring people together when there were conflicts that would arise over policy or tactics. Why do people look to you for that?

*HB:* Because they don't know any better!

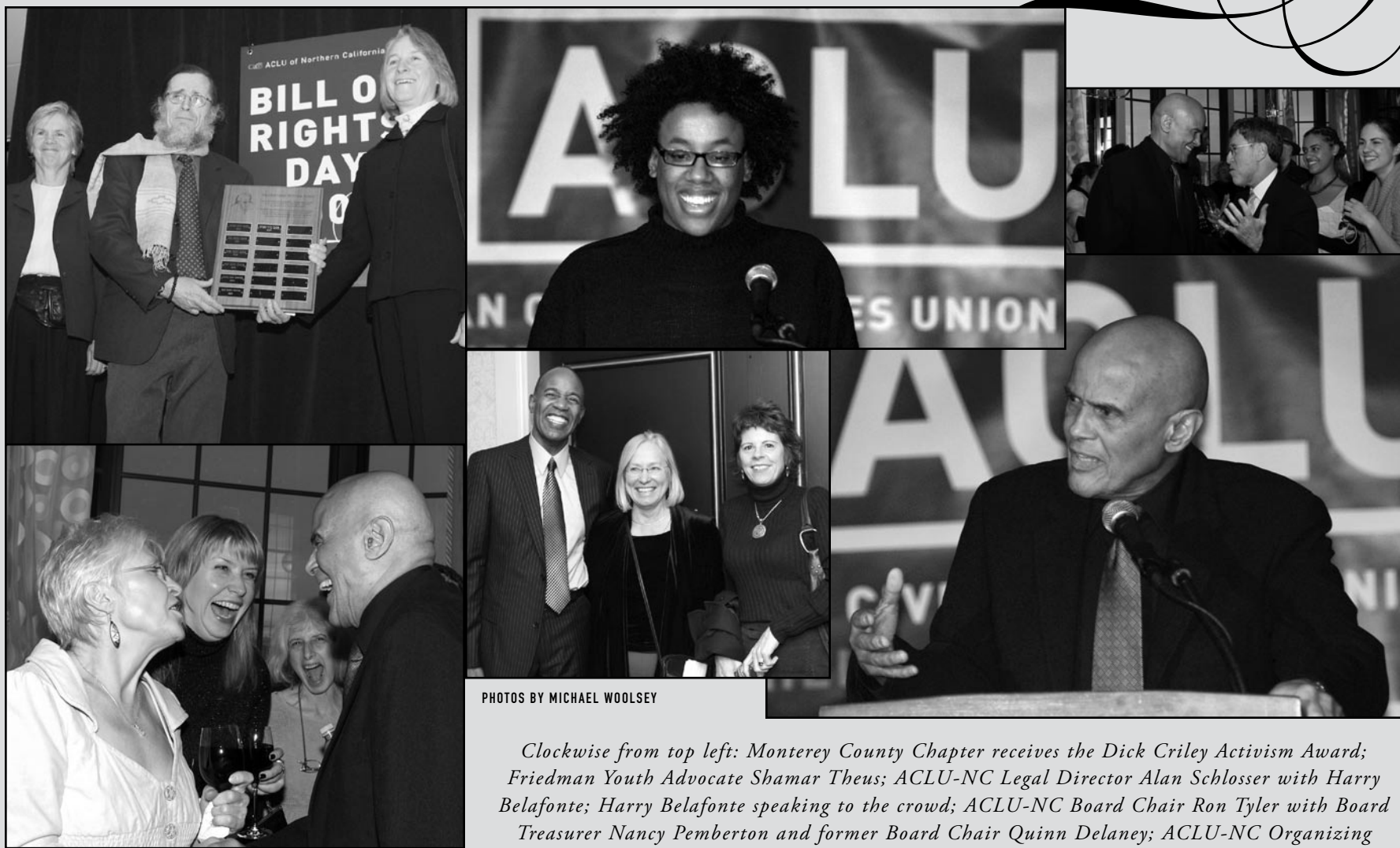
I not only negotiated between the civil rights organizations, that's how I came to deal with the Kennedys. I was appointed as cultural advisor to the Peace Corps [by President John Kennedy], but I didn't have much regard for his brother Bobby, because of the Un-American Activities [Bobby Kennedy served as the legal counsel for Sen. Joseph McCarthy's Senate sub-committee on Internal Security]. But Dr. [Martin Luther] King [Jr.] said we had no choice but to engage the government. He told me: Your task will be to work with Bobby Kennedy, to find his moral center and win him to our cause.

*EE:* It seems you did help him find his moral center, because later he became a champion of the poor, and supported Cesar Chavez and the United Farm Workers.

*HB:* Yea, a lot of things turned him around. We all had a big hand in it, and one could not have done it without the other. Although I had a little inside track.

CONTINUED ON NEXT PAGE

# Bill of Rights Day in pictures



PHOTOS BY MICHAEL WOOLSEY

*Clockwise from top left: Monterey County Chapter receives the Dick Criley Activism Award; Friedman Youth Advocate Shamar Theus; ACLU-NC Legal Director Alan Schlosser with Harry Belafonte; Harry Belafonte speaking to the crowd; ACLU-NC Board Chair Ron Tyler with Board Treasurer Nancy Pemberton and former Board Chair Quinn Delaney; ACLU-NC Organizing Director Justine Saver and supporters with Harry Belafonte.*

*EE:* It seems like your new effort, the Gathering for Justice, is also bringing diverse groups of people together.

*HB:* I never imagined at age 81 I'd still be doing this.

For many years, I was distracted from things domestic because I spent a lot of time in Africa—from the independence movements in the 60s and 70s, through the 80s when the famine came and I put together “We are the World.”

Working with the UN in Kenya, Sudan, and elsewhere, I met child soldiers and other young victims of violence. I'll never forget the look of terror in their eyes. In 2005, I came back and turned on the TV and I saw a 5-year-old girl in Florida who was arrested by three white police officers for being unruly in class. They threw her across a desk and put her in handcuffs. The look of terror on her face was the same as on the faces of the African children.

I thought, ‘How could this happen? When did I blink?’ It really, really deeply disturbed me.

I decided to call a gathering of the elders in Atlanta. How will we deal with this remarkable human, social, and political tragedy?

But I was convinced after that meeting with the elders that I was in the wrong room.

*EE:* Why did you have that feeling?

*HB:* Most of the elders had become comfortable in their stations, in their notoriety. Maybe I am being a little harsh. But I couldn't find anybody with a rebel appetite, and yet all of them were conceived in that.

So I just said we have to get back to the model of what we did during the civil rights movement. When Dr. King spoke in Montgomery he was only 24. I was old at 26. John Lewis, now Congressman Lewis [D-Ga.], was 17; Julian Bond was 18. Diane Nash was 17. Almost all the recognized SNCC [Student Nonviolent Coordinating Committee] leaders were in their teens then. But the campuses of America went silent on us. The streets of America were still alive with anger and rage—so I thought that was the best place to start – getting back to grassroots.

We called a gathering of all the black youth organizations and held it in Epps, Alabama, where we were hosted by sharecroppers who spoke of their experiences in the civil rights movement. The next meeting was in Santa Cruz with Latino youth. After we got the black and brown youth together, we met with the indigenous people, poor whites in Appalachia, and Asian-Americans in Southern California.

*EE:* When you went to all these different places, had everyone heard of you?

*HB:* No...their Dads and their Moms love me. I was just something retrieved from the dustbin of history. Their first question was, “What is the agenda?”

I said with all the history that has been at your disposal, if you have not been able to glean some path that is more productive than the ones you have been on, then I think the agenda is to find the agenda.

Now the groups keep meeting locally and regionally. We are going to have a national gathering. On April 4, 2008—the anniversary of Dr. King's assassination—to set goals and programs.

*EE:* At a speech last year, you said you would like your epitaph to read “Harry Belafonte, Patriot.” What does that word mean to you?

*HB:* The rightwing has co-opted the word “patriotism.” What gives them the right and the arrogance and the belief that they're the only ones to define it?

We are the patriots. We are the ones that fight for human rights and civil rights.

What does one do with celebrity? Because of Paul Robeson, I realized the good fortune that came my way, and that my task was to make my life worthy of the journey.

*Note: For readers who are too young to catch all of Belafonte's references to courageous voices and vibrant movements of prior decades, consider reading Taylor Branch's trilogy on the history of the civil rights movement. The books offer a deep understanding of what it took to challenge Jim Crow, build a movement and transform a segregated nation. The “America in the King Years” series includes Parting the Waters: 1954-63; Pillar of Fire: 1963-65; and At Canaan's Edge: 1965-68.*

*Elaine Elinson is a former ACLU News Editor. She is the co-author, along with ACLU-NC Planned Giving Director Stan Yogi, of a forthcoming book on the history of civil liberties in California that will be published by Heyday Books in 2009.*

# COURTS MUST HOLD TORTURERS RESPONSIBLE

By Maya Harris

**B**inyam Mohamed, an Ethiopian citizen and legal resident of the United Kingdom, was abducted in 2002 by masked men and flown, blindfolded, from Pakistan to Morocco. For 18 months, Mohamed was regularly beaten into unconsciousness by his interrogators. After a scalpel was used to cut into his body, hot, stinging liquid was poured into his wounds.

Mohamed is just one victim of the CIA's "extraordinary rendition" program, which the Bush administration has defended openly, yet is now arguing it cannot discuss without endangering national security.

The government is calling for the dismissal of an ACLU lawsuit—brought on behalf of Mohamed and four other rendition victims—against the San Jose Boeing subsidiary Jeppesen Dataplan Inc. for its alleged participation in the rendition program. The Bush administration has intervened in the case and is invoking the "state secrets" privilege to avoid accountability for its illegal torture policies. A hearing on the government's motion was held Feb. 5 in San Jose and we are awaiting a decision.

The "state secrets" privilege has historically been used to exclude discrete pieces of evidence from lawsuits in order to protect national security, not to throw out entire cases. But the Bush administration has begun to misuse the privilege by routinely waving the "state secrets" flag in an effort to quash lawsuits that might expose its illegal conduct. In addition to this case, the "state secrets" claim

has been raised in an effort to throw out other torture and illegal wiretapping suits.

Far from being a "secret," the rendition program is infamous around the world and has been spoken about repeatedly by government officials.

During a Sept. 6, 2006, speech, President Bush acknowledged that among the "thousands of terrorists" captured by U.S. and allied forces, a "small number" had been "transferred to an environment where they can be held secretly, questioned by experts." Those individuals were "held and questioned outside the United States, in a separate program operated by the Central Intelligence Agency," he said.

Though the administration contends that the rendition program operates within the law and that detainees are sent to countries that the government claims will not commit torture, the truth is that "extraordinary rendition" involves the kidnapping and transportation of alleged terror suspects to detention and interrogation facilities in countries where the use of torture is common and well-documented.

Jeppesen's involvement—like the rendition program itself—is widely known. Jeppesen has been a main provider of flight and logistical support services for aircraft used by the CIA for the clandestine rendition flights. There is ample evidence of Jeppesen's involvement, including traceable flight plans.

In addition, Sean Belcher, a former Jeppesen employee, has given sworn testimony that the flights were discussed openly at Jeppesen. Belcher said that at a meeting on Aug. 11, 2006, Bob Overby, director of Jeppesen International Trip Planning Service at Jeppesen's San Jose office, said, "We do all the extraordinary rendition flights."

Belcher said Overby described these as "torture flights," adding, "let's face it, some of these flights end up this way," or words to that effect. Overby, Belcher said, noted that Jeppesen was well-compensated for its efforts.

To dismiss this lawsuit before Jeppesen has even answered the complaint is both unjust and premature. If there is evidence in the case that must be withheld for national security reasons, the judicial system is equipped to exercise such safeguards within the context of a trial. But there is a wealth of information already in the public domain that should propel this lawsuit forward.

It comes down to this: We live in a country founded on the rule of law and respect for the dignity of human beings. A government that practices disappearance and torture—and companies that profit from it—must be held accountable.

The CIA's rendition program is illegal and inhumane. It—and the lives it has destroyed—is no secret. Its victims deserve their day in court. ■

*This article was first published in the Sacramento Bee, Feb. 5, 2008.*

## ACLU CALLS U.S. REPORT ON RACISM "BLIND" TO INJUSTICE

**O**n International Human Rights Day (Dec. 10), the ACLU released a new national study titled "Race & Ethnicity in America: Turning a Blind Eye to Injustice." The study is an attempt to compensate for some of the stark omissions of a U.S. government report presented last April to the UN Committee on the Elimination of Racial Discrimination (CERD).

The U.S. government's report to the United Nation's anti-racism body covers only four states—Oregon, South Carolina, New Mexico, and Illinois—and fails to provide adequate information on some of the most racially diverse states, including California, Texas, New York, and Florida.

The ACLU's report explores a number of other significant shortcomings in the government's report, including little mention of the aftermath of Hurricane Katrina and a total omission of the "school to prison pipeline" phenomenon—the overzealous funneling of students of color out of classrooms and into the criminal justice system. The government's report also suffers from a complete lack of information on the dramatic increase in hate crimes and the escalating problem of police brutality.

"Race & Ethnicity in America: Turning a Blind Eye to Injustice" contains detailed statistics intended to help fill these gaps.

In California, the report presents research about the persistence of racial inequity and evidence of institutionalized discrimination in California's educational and criminal justice systems, and in the treatment of immigrants. Among the examples cited in the report:

- Compared with schools attended mostly by white students, schools with a high concentration of African-American and

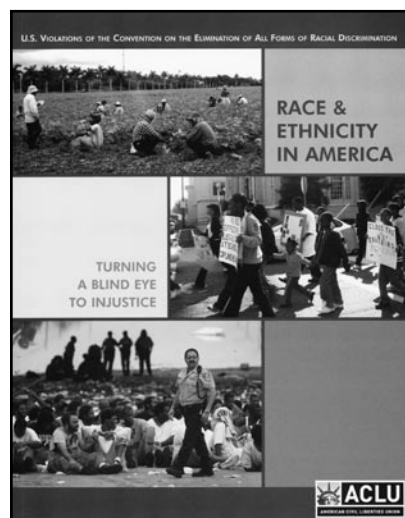
Latino students are 74 percent more likely to lack textbooks for students to use for homework; 73 percent more likely to have evidence of cockroaches, rats, or mice; and three times more likely to report that teacher turnover is a serious problem.

- In California, African-Americans are given third-strike, 25-to-life prison sentences at a rate nearly 13 times the rate of whites. African-Americans represent 6.5 percent of the population, but they make up 45 percent of third strikers.

- While the emergency response system was reportedly successful in alerting Californians to the dangers of the recent October firestorms and getting them to safety, hundreds of reports have emerged that undocumented immigrants were denied emergency services and shelter because they did not

provide proper identity documents. ■

*A copy of the ACLU's report on the U.S. government's report to CERD can be found online at: [www.aclunc.org/docs/Racial\\_Justice/CERD\\_Report\\_2007.pdf](http://www.aclunc.org/docs/Racial_Justice/CERD_Report_2007.pdf)*



### REPORT WARNS OF INTEL FUSION CENTERS' MISSION CREEP

**N**ew "fusion centers" meant to improve anti-terrorism intelligence-sharing among local law enforcement agencies are raising alarming privacy issues, warns a new ACLU study.

The report, *What's Wrong With Fusion Centers?*, argues that the centers' mission has quickly expanded to cover not just criminal intelligence, but also public and private sector data. This is occurring at a time when new technology, government powers and zeal in the "war on terrorism" are combining to threaten Americans' privacy at an unprecedented level.

More than 40 new fusion centers have sprung up across the country, including three in Northern California.

A key problem identified in the report is ambiguous lines of authority—the participation of agencies from multiple jurisdictions allows authorities to manipulate differences in federal, state and local laws to evade accountability and oversight.

Warns Nicole Ozer, ACLU-NC's Technology and Civil Liberties Policy Director, "In a democracy, the collection and sharing of intelligence information—especially information about American citizens and other residents—need to be carried out with the utmost care. That is because more and more, the amount of information available on each one of us is enough to assemble a very detailed portrait of our lives. And because security agencies are moving toward using such portraits to profile how 'suspicious' we look."

The ACLU recommends that Congress and state legislatures impose checks and balances on fusion centers; refocus the centers' mission on effective law enforcement techniques rather than dragnets; and evaluate their ultimate effectiveness. ■

*For more information about Fusion Centers and to read the report, visit [www.aclunc.org/tech](http://www.aclunc.org/tech)*

TAKE ACTION ONLINE TO PROTECT CIVIL LIBERTIES: SIGN UP AT [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)



# LET FREEDOM RING, LET CALIFORNIA RING

The ACLU of Northern California has joined the Let California Ring campaign, a public education effort to open hearts and minds about the freedom of lesbian, gay, bisexual, and transgender Californians to marry and to enjoy the respect, support, protections, and responsibilities that come with marriage.

Through groundbreaking television ads and videos, an interactive website, and a statewide network of volunteers and community leaders, Let California Ring aims to persuade California voters, legislators, judges and the governor that the current law is unconstitutional and that all loving couples deserve the freedom to marry. The Let California Ring campaign is based on a principle that is near and dear to ACLU members: people should be able to have different beliefs and still be treated fairly. If two people want the responsibility and commitment of marriage, it's no business of the government to tell them they can't marry, whether they are gay or straight.

The campaign has set a goal to engage at least one million Californians in conversations about the freedom to marry.



These conversations aim to open up dialogue among people who might not normally take a strong position in favor of same sex marriage, and persuade them that the right to marry is a civil right, one that should not be hindered by bias and discrimination.

In addition to ACLU-NC, partner organizations in the Let California Ring campaign include California Faith for Equality, COLAGE, Marriage Equality USA, National Black Justice Coalition, National Center for Lesbian Rights, National Gay and Lesbian Task Force, PFLAG, the San Diego LGBT Community Center, and TransEquality LA. ■

For more information and to view personal stories and video clips, visit [www.letcaliforniarings.org](http://www.letcaliforniarings.org)

## 5 WAYS TO START CONVERSATIONS ABOUT THE FREEDOM TO MARRY

Here are a few ways to get people thinking about how discrimination affects those who desire to marry.

1. Think about it—what if you were told that you couldn't do something that was personally and profoundly important to you? How would that make you feel about your future plans, your life?
2. Having the same opportunities to realize hopes and dreams is a cornerstone of freedom.
3. Does excluding someone from marriage impact their family's perception of their relationship?
4. Domestic partnerships don't provide the same security as marriage. They exclude people from marriage and create a two-tiered system at odds with the principle of equal opportunity.
5. If two people want the responsibility and commitment of marriage, is it the business of government to tell them they can't marry, whether they are gay or straight?

# FAMILY MEMBERS OF MURDER VICTIMS SPEAK OUT AGAINST THE DEATH PENALTY

By Arushi Sinha, Guest Contributor

Despite enduring unimaginable, heartbreaking grief, the families of murder victims are choosing to speak out against the death penalty by sharing their most painful stories of loss. Their experiences form part of a powerful new publication entitled "Voices from California Crime Victims for Alternatives to the Death Penalty," a joint project of three organizations that are working to reframe the debate over the death penalty in California—Murder Victims' Families for Reconciliation, Death Penalty Focus, and the ACLU-NC.

The death penalty solves nothing and may even perpetuate the suffering of the parents, children, or siblings left behind, the contributors to the booklet concur.

"Revenge is not justice," says Lorrain Taylor, whose twin boys, Albade and Obadiah, aged 22, were murdered while working on their stalled car. Obadiah had plans to open his own barbershop, and Albade had just received a promotion at the law firm where he worked.

"Taking another person's life does not stop violence," says Taylor. "There's a contradiction in responding to murder by executing people."

Many of the family members of murder victims continue to uphold the memories, ideals, and efforts of their loved ones. Joshua "Jojo" White, the son of Derrel Myers and Naomi White, was 23 years old when he was shot dead by a young assailant. Jojo was known for his work for peace and justice, including serving as a counselor to at-risk youth at Martin Luther King Jr. Academic Middle School in San Francisco. Jojo also opposed the death penalty.

"We do not think that the execution of Jojo's killer will make the world a better place," say Jojo's parents. "We honor Jojo's life by working for peace and social justice – goals that were important to him."

Aba Gayle, the mother of Catherine Blount, who was murdered at age 19, speaks of the transformative power of forgiveness. For eight years following Catherine's death, Aba Gayle says she was consumed with the desire for revenge. After a personal journey of spiritual growth and healing, she reached out to Douglas Mickey, the man convicted of Catherine's murder and currently on California's death row.

"Twelve years after Catherine's death, I wrote a letter to Mr. Mickey telling him that I forgave him," recounts Gayle. "The act of mailing that letter resulted in instant healing."

Some of the speakers in "Voices" echo a perspective among many California voters—that we need a more balanced approach to the problem of crime that shifts some of the dollars the state spends on punishment toward programs that address root causes of crime, including poverty.

"If the government really wanted to end the violence, it would take the millions of dollars it is wasting on the death penalty in California and use it for violence prevention for youth, rehabilitation, and victim services," says Taylor.

In 2005, the Los Angeles Times reported that California spends \$57.5 million more every year to house people on death row than would be spent if all of those people were sentenced to life without parole.



"Voices" was published as hearings on the problems with California's death penalty commenced in Sacramento in January. Convened by the California Commission on the Fair Administration of Justice, the hearings present a historic opportunity for concerned Californians to advocate for replacing the death penalty with life without parole as New Jersey lawmakers recently did.

The first hearings took place in Sacramento, to be followed by hearings in Santa Clara and Los Angeles. At the South Bay hearing in March, the ACLU-NC will present new statistics and review legal developments that may signal shifts in the way Californians think about the ethics and efficacy of the death penalty.

The Commission hearings will also give the survivors of murder victims a critical opportunity to speak. ■

For information on the hearings, visit the Web site of the California Commission on the Fair Administration of Justice ([www.ccfaj.org](http://www.ccfaj.org)) or email ACLU-NC Program Assistant Romy Ganschow ([rganschow@aclunc.org](mailto:rganschow@aclunc.org)).

To read stories from victims' families, visit [www.californiacrimevictims.org](http://www.californiacrimevictims.org).

# THE TRUTH BEHIND THE CAMOUFLAGE: A YOUTH INVESTIGATION INTO THE MYTHS & TRUTHS OF MILITARY RECRUITMENT & MILITARY SERVICE

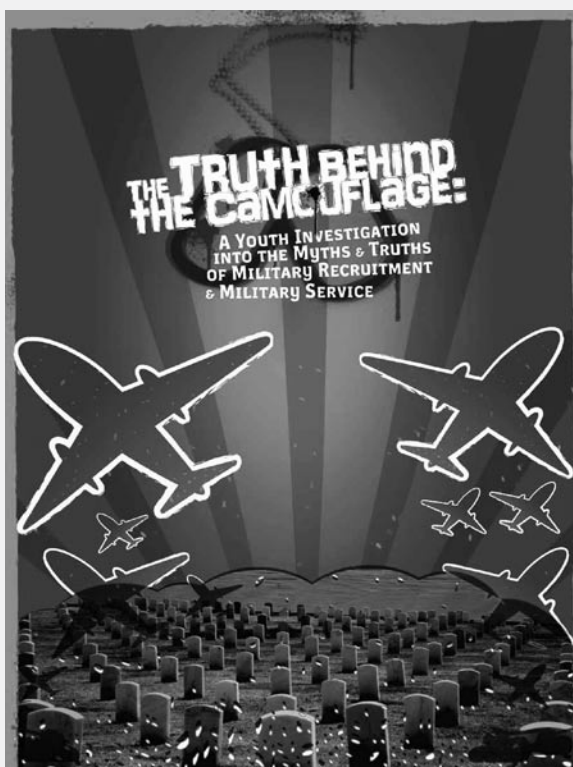
**A**s part of the ACLU-NC's Howard A. Friedman Education Project, 23 high school students from Northern California spent eight summer days in 2007 investigating a civil liberties topic of their choice: The myths and truths of military recruitment and military service.

Youth engaged in The Friedman Project designed an ambitious learning tour: The students gathered insights from community leaders, listened to personal stories of women veterans, talked with former soldiers who are coping with the psychological effects of trauma and physical disabilities, and visited with military recruiters. They chronicled their observations and insights in an evocative series of essays, poems, photographs, and drawings. The result is an empathic, impassioned compilation titled "The Truth Behind the Camouflage," hot off the presses from the project.

The writers and artists who contributed to the report are committed to sparking open, honest dialog with their teenage peers, the age at which many students are drawn into conversations with military recruiters and forced to weigh hunger for opportunity and the will to sacrifice against disgust of war and a desire for truth, trust, and peace.

The youth who participated in the project have become peer educators, facilitating workshops with other young people at schools and community centers throughout northern California.

Following are excerpts from "The Truth Behind the Camouflage," which can be found at [www.aclunc.org](http://www.aclunc.org).



## TEACHERS, STUDENTS SHARPEN ACTIVIST SKILLS

By Sarah Jo

**D**etermined to bolster their campus organizing skills, two-dozen high school students and teachers from various Northern California cities gathered in October at the ACLU-NC's Sixth Annual Student and Teacher Activist Retreat (STAR).

Teachers and students spoke freely about the difficulty of taking on civil liberties issues on their campuses. "I was impacted by others' honesty," said one anonymous evaluation. "I learned how to be honest with myself, and proud of what I am and what I do! I'm not alone!"

Seven local high schools participated: Alternative Learning Community, Fremont Media Academy, and MetWest High School, all in Oakland; City Arts & Tech (San Francisco); Jesse Bethel High School (Vallejo); One.Achievement (Stockton); and Washington High School (Fremont).

ACLU-NC Civil Liberties Fellow Juniper Lesnik co-facilitated a workshop on student rights, covering issues ranging from free speech to the presence of military recruiters on campus.

By the end of the weekend, each school group had developed its own action plan to take back and implement on campus.

"The campus action plan is a great tool to empower student leadership," reflected one student in a written evaluation of the experience.

The ACLU-NC's Friedman Project sponsors STAR each year. ■

*Sarah Jo is an ACLU-NC Friedman Youth Advocate*

## IN A SINGLE INSTANT

By Sarah Leadem

On the beach of Camp Pendleton, a young boy clumsily stumbles upon a spot in the sand and, with great determination, begins digging a hole with a yellow plastic shovel. Two young girls chase each other around a big blue umbrella, chuckling wildly as one quickly escapes the other. Young boys and girls stand excitedly on the shore, jumping up and down, giggling playfully. Suddenly, a wave leaps out of the still waters and rushes toward the group of children. With knowing smiles, they begin to scream and run toward the safety of the sandy beach, each light footstep initiating a new burst of laughter.

I see life. I see happiness. I see simplicity. I see joy. But then, I am overcome by a feeling in the pit of my stomach—a feeling of sadness—as I see this beautiful scene begin to crumble before my eyes. This is not just a typical public beach and these are not typical children. These are the children of military families, who have mothers or fathers serving in the Marines, possibly on deployment in Iraq or awaiting news of a deployment.

And all of a sudden, the vibrant colors surrounding me turn to dull shades of grey. The smile on my face seems to melt away; my soul seems to sink deeper into my skin. I realize that in a single instant, this light-heartedness, this joviality, this sense of peace, could all be destroyed by that one, dreaded knock on the door. In an instant, the life of this child before me could be forever changed.

## 3,685

(The number of American soldiers killed in Iraq as of August 12, 2007, the last day of our trip)

By Alysha Aziz

3,685.

It's just a number really.

Just a cold, abstract number that I can file away with all the other numbers I learned in history, algebra, and statistics.

And yet, as she shows us the picture of her smiling son, killed in Iraq, suddenly, that number begins to pulse, and breathe, and laugh, and smile, and dream.

The surprise of seeing a real, tangible face so soon after hearing about his death was like a sudden bitterness in my mouth.

And right at that moment, I want everyone in the country to feel that number.

I want it so bad that it hurts in the pit of my stomach. I want people to realize what just one combat death looks like, feels like, tastes like.

Because maybe then we will stop unjustly blowing apart countries,  
Blowing apart families,  
Blowing apart people.

Maybe we will stop marching with cold metal guns in our hands for a warm dream that is snatched out of those hands.

Maybe we will stop idealizing the big explosions and adrenaline-filled "adventure" and stop being seduced by the sweet sugary lies that slide off the tongues of the sleek-suited recruiters.

Maybe once we feel the pain, we will stop the hurting.

## NAVY RECRUITER

By Alberto Gomez

When we got to the office we saw a young woman, and we told her we were there for information on the Navy. She said, "There's pamphlets outside the door or you can take the seat and the recruiter will be right out."

We took a seat, and I saw this big, fit man who was about my size. As soon as I saw him my nervous feeling turned into straight bone-chilling fear. Then he said "Hi" and shook my hand. I noticed when we were introducing ourselves that he was actually a very nice guy. Then he asked me the question that later turned into bait: "What are you interested in?" I told him I wanted to be an electrical engineer, and that turned into the main point of our discussion. Everything tied back to how joining the Navy could help me reach my career goal; but, really, all he wanted me to do was join. He was really good at making things sound great. As we started to ask questions, his answers sounded too good to be true; like when we asked about college he promised me about half a million dollars. What if I smoked weed? The recruiter answered, "Don't worry about that; everyone smokes weed, we'll just keep that here in the office."

Even if I knew that he might be telling lies, it still sounded so good—money for college, job training, traveling. What made me scared was if I had been in that office alone with the recruiter, I swear I would have joined. He really just made it sound so good, like a guarantee for success. And that's what a lot of us dream about.

FOR THE LATEST NEWS AND OPINIONS VISIT [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)

# CAMPUS CLUBS ARE ON THE RISE

By Ashley Morris

Campus clubs are crucial civil liberties monitors and advocates on campuses and in surrounding communities. Fall 2007 was a busy time for both established and emerging ACLU-NC campus clubs.

UC Berkeley and Santa Clara University Law School clubs kept up their on-campus activism, while new clubs formed at UC Davis King Hall, Golden Gate University, and UC Hastings law schools.

The UC Berkeley club, with about 25 active members, completed another successful semester of its student-taught class “Civil Liberties Today,” part of the Democratic Education at Cal (DeCal) program, which allows students to initiate academic courses of their own design in consultation with faculty members. The class of 35 students met for weekly discussions with civil liberties experts from various organizations, including Equality California, Planned Parenthood, and the Asian Law Caucus.

“The DeCal class and the club in general are responsible for familiarizing the student body with the wide range of ACLU issues affecting them,” said External Affairs Co-President Devin McCutchen. “For many students, the club serves as an introduction to advocacy and to the process of becoming active members of civil society.”

At Stanford, a group of motivated undergraduates is eager to start off their semester with civil liberties advocacy. As many of the students are originally from outside California, the members look forward to familiarizing themselves with California policy and legislative and democratic processes.

The Santa Clara University Law club has, among other things, co-sponsored with the Bisexual, Gay, and Lesbian Advocates (BGLAd) a successful educational event on the military’s discriminatory “Don’t Ask, Don’t Tell” policy against gay and lesbian soldiers. Among the club activities planned for 2008 are a teach-in on drug policy reform, a visit with Congressperson Michael Honda, and a forum on issues of privacy and technology entitled “In Google We Trust.”

At Davis, student Aaron Thompson recently set up a new club at King Hall.

“We started our club because we felt that, while we were gaining important knowledge as future lawyers, current issues and events are too important for us to sit back and be passive observers,” said Thompson.

The Davis club’s Board of Directors is designing an action plan, which includes an extensive voter protection and poll watching project. It will also join the ACLU-NC in a project to register eligible individual voters who are incarcerated in county jails.

In San Francisco, more than 40 students attended the standing-room-only first meeting of the Golden Gate University law school club. Representing a large portion of the total law school student body, participants were interested in joining ACLU-NC’s priority campaigns on police ac-



*A new ACLU-NC campus club was recently established at the law school at UC Davis. The Davis club’s Board of Directors is designing an action plan, which includes a voter-protection and poll-watching project.*

countability and promoting equity and opportunity in public education. Members used the winter break to form a board of directors and begin laying out specific goals for the coming semester.

UC Hastings students recently met with Organizing Department staff members to discuss launching a club in the new semester by holding a general meeting of interested students in early 2008. More than 20 students already have expressed interest in joining the club and working on civil liberties issues in the Bay Area. ■

*Ashley Morris is an ACLU-NC Organizing Fellow.*

## ACLU-NC CHAPTER MEETING SCHEDULES CONTACT YOUR LOCAL ACLU CHAPTER AND GET INVOLVED!

**B.A.R.K.+ PLUS CHAPTER MEETING:** Third Wednesday of each month at 7 p.m. For more information, contact Jim Hausken at (510) 558-0377 or [jhausken@redshift.com](mailto:jhausken@redshift.com).

**CHICO AND NORTH VALLEY ASSOCIATE CHAPTER MEETING:** Monthly meetings on Monday at the Chico Library. For more information, contact Laura or Brett Ainsworth at (530) 894-6895 or [acluchico@yahoo.com](mailto:acluchico@yahoo.com).

**GREATER FRESNO CHAPTER MEETING:** Contact Bill Simon, Chair, for more information at [simonaclu@sbcglobal.net](mailto:simonaclu@sbcglobal.net).

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

**MARIN COUNTY CHAPTER MEETING:** Third Monday of each month from 7–9 p.m. at the San Rafael Corporate Center. For more information, contact George Pegelow at (415) 492-8903 or [gpegelow@sbcglobal.net](mailto:gpegelow@sbcglobal.net). Or call the Marin Chapter complaint hotline at (415) 456-0137.

**MID-PENINSULA CHAPTER MEETING:** Fourth Tuesday of each month, from 7–9 p.m. at the Fair Oaks Community Center, Room #4, 2600 Middlefield Road, Redwood City. The chapter mailing address is PO Box 60825, Palo Alto, CA 94306. Contact Harry Anisgard for more information: (650) 856-9186.

**MONTEREY COUNTY CHAPTER MEETING:** Third Tuesday of the month (except August, December, and January) at 7:15 p.m. at the Monterey Public Library, 625 Pacific Street, Monterey. For more information, contact

Elliot Ruchowitz-Roberts at (831) 624-1180 or visit [www.aclumontereycounty.org](http://www.aclumontereycounty.org). To report a civil liberties concern, call Monterey’s complaint line at (831) 622-9894 (Spanish translation available).

**NORTH PENINSULA (DALY CITY TO SAN CARLOS) CHAPTER MEETING:** Third Monday of the month at 7:30 p.m. The chapter mailing address is PO Box 51, San Mateo, CA 94401. For more information, contact the chapter hotline at (650) 579-1789 or [npenaclu@comcast.net](mailto:npenaclu@comcast.net).

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

**REDWOOD (HUMBOLDT COUNTY) CHAPTER MEETING:** Third Thursday of each month at noon. 917 3rd Street, Eureka, CA. For more information, contact (707) 215-5385 or visit [redwoodaclu.blogspot.com](http://redwoodaclu.blogspot.com).

**SACRAMENTO COUNTY CHAPTER MEETING:** For more information, contact Jim Updegraff at [updegraff@pacbell.net](mailto:updegraff@pacbell.net).

**SAN FRANCISCO COUNTY CHAPTER MEETING:** For more information, contact [awalters@aclunc.org](mailto:awalters@aclunc.org).

**SAN JOAQUIN COUNTY CHAPTER MEETING:** Regular meetings. For more information, contact John Williams at [jandjw1@gmail.com](mailto:jandjw1@gmail.com).

**SANTA CLARA VALLEY CHAPTER MEETING:** First Tuesday of each month at 7 p.m. at 1051 Morse Street (at Newhall), San Jose. For more information, contact [acluscv@hotmail.com](mailto:acluscv@hotmail.com) or visit [www.acluscv.org](http://www.acluscv.org). To leave a voice message for the chapter Chair, call (408) 327-9357.

**SANTA CRUZ COUNTY CHAPTER BOARD MEETING:** Fourth Monday of every month at 7 p.m. For more information, contact [info@aclusantacruz.org](mailto:info@aclusantacruz.org) or visit [www.aclusantacruz.org](http://www.aclusantacruz.org).

**SHASTA-TEHAMA-TRINITY COUNTIES CHAPTER MEETING:** Regular meetings are held in Redding. For more information, contact Dan Yost, Chair, at [donald@snowcrest.net](mailto:donald@snowcrest.net) or (530) 241-8421.

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

**STANISLAUS COUNTY CHAPTER MEETING:** Third Tuesday of every month from 7–9:30 p.m. at the Modesto Peace/Life Center, 720 13th Street, Modesto. For more information, contact the chapter hotline at (209) 522-0154 or [stanaclu@sbcglobal.net](mailto:stanaclu@sbcglobal.net).

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

## CAMPUS CLUBS

**BERKELEY CAMPUS ACLU:** Weekly meetings during the school year. For more information, contact Devin McCutchen at [devin\\_mccutchen@berkeley.edu](mailto:devin_mccutchen@berkeley.edu).

**SANTA CLARA UNIVERSITY LAW:** For more information, contact Lauren Vazquez at [lvazquez821@yahoo.com](mailto:lvazquez821@yahoo.com).

# ASK THE EXPERTS!

## IMMIGRANTS RIGHTS



Julia Harumi Mass

**F**or years, anti-immigration organizations have tried to depict illegal immigration as a threat to the nation's security, economy, and cultural fabric. In the wake of the upcoming presidential election, some candidates are trying to rally supporters with harsh anti-immigrant positions. Immigration expert and ACLU-NC Staff Attorney Julia Harumi Mass explains the ACLU's efforts to defend immigrant rights.

### ARE NATIONAL SECURITY MEASURES AFFECTING IMMIGRANTS' RIGHTS?

Absolutely. The following are just a few of the government's post-9/11 initiatives affecting immigrants:

- The "special registration" program begun in 2002 targeted male immigrants from Arab, South Asian, and predominantly Muslim countries for special registration requirements with the Department of Homeland Security, resulting in discriminatory deportation.

### WHY IS THE ACLU CONCERNED ABOUT IMMIGRANTS' RIGHTS?

The United States is a nation of immigrants and owes its political, economic, and cultural strength to the contributions of people from many different countries. Yet non-citizens are often treated unfairly. The Supreme Court has long recognized that discrimination against immigrants violates our constitutional guarantee of equal protection.

Since its founding in the wake of the 1919-1920 Palmer raids when European immigrants were targeted for detention and deportation based on their political beliefs, the ACLU has fought to ensure the civil liberties and civil rights of all immigrants. As national security rhetoric and legislation continue to target immigrants, we believe it is as important as ever that we work vigilantly to protect immigrants' rights.

### WHAT RIGHTS DO IMMIGRANTS HAVE? WHAT ABOUT "ILLEGAL IMMIGRANTS"?

The fundamental civil liberties protections of the Constitution apply to "persons," not just citizens. Every person in the United States has a right to due process and equal protection; to freedom of speech, religion, and association; to be free from unreasonable searches and seizures and from cruel and unusual punishment. These basic principles generally apply regardless of an immigrant's legal status. In addition, there are many laws, such as labor laws, that apply to people regardless of citizenship or immigration status.

### WHAT SHOULD WE DO ABOUT ILLEGAL IMMIGRATION?

There are currently about 12 million people living and working in the United States without authorization. They are part of our communities, our families, and our society. Many are hesitant to press for their legal rights because they fear deportation. This situation undermines the rule of law for all of us and creates an underclass of extremely vulnerable people.

We believe that core American values of due process and equal protection call for us to help all our neighbors become full members of society—with the rights and responsibility citizenship entails—rather than maintain the current system of inequality and exploitation.

### WHAT'S GOING ON WITH IMMIGRATION RAIDS?

In late 2005, Immigration and Customs Enforcement (ICE) began a series of residential raids in communities throughout Northern California and the country. We have been gathering information about ICE practices during these raids, which appear to consistently include illegal entries into homes without warrants or voluntary consent. We are considering a broad-based challenge to ICE's practices.

In April, we filed a case together with the Lawyers

THE FUNDAMENTAL CIVIL LIBERTIES PROTECTIONS OF THE CONSTITUTION APPLY TO "PERSONS," NOT JUST CITIZENS. EVERY PERSON IN THE UNITED STATES HAS A RIGHT TO DUE PROCESS AND EQUAL PROTECTION; TO FREEDOM OF SPEECH, RELIGION, AND ASSOCIATION; TO BE FREE FROM UNREASONABLE SEARCHES AND SEIZURES AND FROM CRUEL AND UNUSUAL PUNISHMENT. THESE BASIC PRINCIPLES GENERALLY APPLY REGARDLESS OF AN IMMIGRANT'S LEGAL STATUS.

Committee for Civil Rights and the law firm of Co-blentz, Patch, Bass & Duffy on behalf of Kebin Reyes, a U.S. citizen who was six years old when he was taken into ICE custody with his father, despite the father's repeated requests to call a relative to care for Kebin. The suit seeks damages for violations of Kebin's Fourth Amendment rights.

ICE recently reported that it arrested 1,963 residents in Northern California last year. While ICE usually claims that its enforcement efforts are targeted at "fugitives" and "criminal aliens that pose a threat to our national security," less than one quarter of those arrested in Northern California in 2007 had criminal records. In addition, the pattern of residential raids in early 2006—where ICE officers went knocking door-to-door in predominantly Latino neighborhoods and stopped family members walking children to school—suggests an enforcement methodology that is more akin to racial profiling than targeting known criminals.

### WHY DOES THE ACLU OPPOSE LOCAL ENFORCEMENT OF IMMIGRATION LAW?

The U.S. Constitution makes immigration a federal responsibility for good reasons. Asking local law enforcement agencies to enforce federal immigration law increases the risk of racial profiling and erodes public safety. Victims and witnesses of crime are less likely to contact the police if they believe the officers will inquire into their immigration status or that of their family members. Federal immigration law is extremely complex, and asking local officers to learn and enforce it diverts scarce resources from public safety responsibilities. Enforcement by untrained local officers can also lead to grave errors, such as the recent deportation of a developmentally disabled Mexican-American U.S. citizen from the Los Angeles County jail.

- In 2005, Congress passed the REAL ID Act, which, among other things, created broad new grounds for deportation and inadmissibility based on one's advocacy for or endorsement of "terrorist" activities or organizations based on a vague and overbroad definition.
- More recently, "national security" has been used as an excuse to create a wall along the southern border of the country and to justify mass roundups of undocumented residents under the aegis of "Operation Return to Sender."

In a case filed this year, ACLU-NC, the national ACLU Immigrants' Rights Project, Asian Law Caucus, and the Center for American-Islamic Relations seek class-wide relief to address years-long delays for people applying for citizenship. In November 2002, the government expanded its use of FBI background checks to include a "name check" for each applicant against every name that appears as a reference (as a victim, witness, or other relevant party) in an FBI investigation database. This practice, which results in "false hits," has caused delays for hundreds of thousands of people throughout the country.

### WHAT OTHER IMMIGRANT RIGHTS WORK IS THE ACLU-NC INVOLVED IN?

We regularly consult with our coalition partners and local and state government representatives regarding new developments that affect immigrant rights. Most recently, ACLU-NC provided comments and recommendations to improve privacy protections and fairness in San Francisco's municipal identification ordinance. We have written to the California Department of Corrections and Rehabilitation concerning equal protection and due process concerns regarding the state's involuntary transfer of immigrant inmates to private prisons outside of California. And we have weighed in to support a resolution before the Oakland City Council that would declare it in the public interest to provide visas for witnesses and victims of crime who cooperate with local authorities. ■

*The ACLU offers Know Your Rights brochures to help new immigrants and friends, family members, and service providers to understand and defend the legal rights of newcomers to California. See [www.aclunc.org/news/publications/index.shtml](http://www.aclunc.org/news/publications/index.shtml).*

*ACLU-NC Staff Attorney Julia Harumi Mass is an expert on immigration issues.*