



*Because Freedom Can't Protect Itself*

[acluofnc.org](http://acluofnc.org)

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# 'Amendment One's Days Are Numbered'

## *ACLU Moves to Invalidate N.C. Marriage Ban After Victory in Va. Case*

**N**orth Carolina's discriminatory ban on marriage for same-sex couples is on borrowed time, ACLU of North Carolina Legal Director Chris Brook explained at a press conference one day after a federal appeals court ruled that Virginia's similar marriage ban is unconstitutional.

The July 28 ruling from the U.S. Court of Appeals for the Fourth Circuit, which covers North Carolina and four other states, has established a legal precedent that makes North Carolina's ban on marriage for same-sex couples, known as Amendment One, legally indefensible, Brook explained.

"It makes very clear that Amendment One's days are

numbered here in North Carolina, and it is a matter at this point not if Amendment One is struck down but when Amendment One is struck down and the freedom to marry is recognized here in North Carolina," Brook said.

Brook spoke at the LGBT Center of Raleigh the day after the Fourth Circuit ruling alongside members of the nine families the ACLU is representing in two separate federal court challenges to Amendment One.

Plaintiffs Jane Blackburn and Lyn McCoy, who have been together more than 20 years and legally wed in the District of Columbia in 2011, explained the urgent need to have their marriage recognized in North Carolina. Blackburn is battling Stage IV breast cancer.

"Frankly, we want to get married while [Jane] is still alive to do it," McCoy said.

The ACLU is moving quickly to ask a federal judge in North Carolina to issue rulings in both ACLU marriage cases, *Fisher-*



*ACLU-NC Legal Director Chris Brook speaks to media July 29 about the next steps in the ACLU's challenges to N.C.'s marriage ban.*



*ACLU clients Jane Blackburn (left) and Lyn McCoy of Greensboro are seeking the freedom to marry in North Carolina.*

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*Borne, et al. v. Smith and Gerber and Berlin, et al. v. Cooper*, so that couples like McCoy and Blackburn can have the legal security, respect, and dignity of having their marriages recognized in their home state without further delay. **Visit [acluofnc.org](http://acluofnc.org) for updates.** ■



## LIBERTY

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# New School Year Brings New Challenges

Students don't shed their constitutional rights at the schoolhouse door, but as we all know, vulnerable populations such as young students are often those who find their civil liberties most challenged by officials, new technology, or the latest anti-liberty trend.

As we prepare for a new school year, the hardworking and committed staff at the ACLU of North Carolina is preparing to once again stand up for the constitutional rights of students across our state, no matter where or how they are challenged.

Last year, for example, we defended the religious liberty of high school students in Randolph County who felt excluded by a school official's unconstitutional use of sectarian prayer at the beginning of football games. Once the ACLU-NC intervened, the school adopted a more inclusive approach and eliminated this practice.

Our staff also helped students in Rowan County defend their right to form Gay-Straight Alliances (see page 6 for more details), as well as a Haywood County student's right to form a nonreligious club. We also worked to ensure that both clubs received the same level of school support as all other student groups.

However, we can't always know what issues we'll face. None of us knew last year that we'd have to help combat four separate attempts to ban books from English classrooms. Luckily, we were able to work with community members in Brunswick, Guilford, Randolph, and Watauga counties to defeat all four challenges, but a new effort is already underway to ban yet another work of literature— Sherman Alexie's award-winning "The Absolutely True Diary of a Part-Time Indian" — in Brunswick County, and more could soon follow. The ACLU-NC has also been speaking out against both the increased reliance on armed school resource officers across the state, as well as a new pilot program in Jackson County that is the first in North Carolina to monitor all of its students' use of social media .

This work is not possible without your support. Please help ensure that we have the resources necessary to combat attacks on students' rights this school year by making a tax-deductible donation at [acluofnc.org](http://acluofnc.org) or by using the form on page 7. Thank you, as always, for your commitment to civil liberties. ■



*Jennifer Rudinger*

Jennifer Rudinger  
Executive Director

# LEGAL NEWS

## ACLU Fights Voter Suppression in Court

**A**ttorneys from the ACLU, ACLU-NC, and allied organizations went to federal court twice this year to combat the voter suppression law the North Carolina General Assembly passed in 2013.

Last year, the ACLU and the Southern Coalition for Social Justice filed a federal lawsuit seeking to overturn provisions of the law that eliminate a week of early voting, end same-day registration, and prohibit “out-of-precinct” voting – voting methods that are used by hundreds of thousands of North Carolinians. The ACLU, which represents several groups and individuals who will be harmed by the changes, argues that those cuts will make it harder for many North Carolinians, and in particular, African Americans, to vote

In May, the court delivered the ACLU an important victory when it ordered state lawmakers to disclose their emails and other communications related to passage of the law. The ACLU had filed a motion to compel the release of that information after lawmakers refused to do so by claiming “legislative immunity.”

Then in July, the ACLU legal team and its allies returned to court to ask that the cuts to ballot access be placed on hold during the 2014 midterm elections. “The state can’t play games with the most fundamental right in our democracy,” explained Dale Ho, director of the ACLU’s Voting Rights Project, who delivered arguments in court alongside ACLU-NC Legal Director Chris Brook and others. “If this law is subsequently found unconstitutional, eligible voters who were denied their vote in the midterm elections won’t get a do-over. The damage will have been done.”

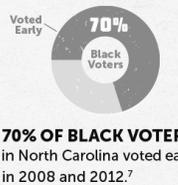
On August 8, Judge Thomas Schroeder unfortunately ruled that the law can remain in effect until a full trial in summer 2015. But the judge also rejected North Carolina’s request to avoid a full trial.

“This is not the end of the fight to stop these discriminatory measures,” Brook said. “Our ultimate goal is to see these cuts struck down, and we look forward to making our case during the full trial – something the state sought to avoid.” ■



*From left: ACLU-NC Legal Director Chris Brook, ACLU Voting Rights Project Staff Attorney Julie Ebenstein, ACLU-NC Executive Director Jennifer Rudinger, and ACLU Voting Rights Project Director Dale Ho outside a federal courthouse in Winston-Salem on July 8, 2014.*

### CUTTING EARLY VOTING IS VOTER SUPPRESSION



Cuts to early voting lead to  
**LONGER LINES & FEWER VOTERS**



**229,947 PEOPLE** might have left in frustration over long lines if North Carolina’s early voting cuts had been in effect in 2012.<sup>6</sup>

# Report: Police in N.C. Are Excessively Militarized

American policing has become unnecessarily and dangerously militarized, in large part through federal programs that have armed state and local law enforcement agencies with the weapons and tactics of war with almost no public discussion or oversight, according to a new ACLU report, *War Comes Home: The Excessive Militarization of American Policing*.

Of the hundreds of SWAT deployments the ACLU studied in 20 states, including North Carolina, only 7 percent were for an active shooter, hostage or barricade situations, while the vast majority, almost 80 percent, were instead for the purpose of executing a search

warrant, most commonly in drug investigations.

The report documents multiple tragedies caused by police carrying out needless SWAT raids, including a 26-year-old mother shot with her child in her arms and a 19-month-old baby critically injured when a flashbang grenade landed in his crib.

In light of the report, the ACLU-NC is calling on state and local governments to impose meaningful restraints and oversight on the use of these weapons and tactics in order to ensure that they are used only when absolutely necessary and not simply for everyday police work. **Read the report: [acluofnc.org](http://acluofnc.org).** ■



## Racial Bias in SWAT Raids

North Carolina has some of the greatest racial disparities in SWAT raids in the United States, according to the ACLU report.

In Chatham County, for example, black residents are 15 times more likely than white residents to be targets of SWAT raids. In the city of Burlington, black residents are 37 times more likely to be targeted — the highest disparity recorded in the nation.

# Stingrays: The Most Powerful Surveillance Tool the Government Doesn't Want You to Know About

At least four North Carolina cities—Charlotte, Durham, Raleigh, and Wilmington—are using secretive surveillance tools known as Stingrays, according to ongoing investigations by the ACLU of North Carolina.

Stingrays, also known as “cell site simulators” or “IMSI catchers,” are invasive, portable cell phone surveillance devices that mimic cell phone towers and send out signals to trick cell phones in the area into transmitting their locations and identifying information. When used to track a suspect's cell phone, they also gather information about the phones of countless bystanders who happen to be nearby.



In June, the *Associated Press* reported that the Obama administration has been asking local police departments to stay quiet about their use of this technology, leading the ACLU-NC to look into its use across the state.

ACLU-NC public records requests revealed that Charlotte, Durham, Raleigh, and Wilmington have each spent hundreds of

thousands of dollars on the technology, but officials won't say for what specific purposes they are using it or what policies, if any, they follow when conducting surveillance. In one ACLU case in Florida, a police officer explained in court that he “quite literally stood in front of every door and window” with his stingray to track the phones inside a large apartment complex.

The ACLU-NC is still continuing its investigation into the use of stingrays in North Carolina and is working with the ACLU National office to uncover and combat the threats to privacy posed by this technology. ■

# LEGISLATIVE NEWS

The North Carolina General Assembly has completed its recent “short session,” during which the ACLU-NC helped advance some positive civil liberties legislation and defeat many more proposals that would have restricted liberty in North Carolina. Here are some highlights:

## PRIVACY RIGHTS

The ACLU-NC helped defeat a version of H.B. 348 that would have allowed the placement of automatic license plate readers (ALPRs) on state-owned highways without including measures to safeguard the information collected by the readers from abuse by law enforcement.

The ACLU-NC helped defeat H.B. 1099, a bill that sought to legalize drone use in North Carolina but did not establish sufficient safeguards to make sure that drones would not be used by law enforcement to conduct warrantless surveillance or to chill First Amendment activities, such as art or journalism, involving drones. Unfortunately, lawmakers later inserted much of the bill’s problematic language into the state’s budget, which was signed into law. The budget also extends a prohibition on most drone use until December 2015.

## STUDENT & YOUTH RIGHTS

The ACLU-NC supported and applauded House passage of a bill to place 16 and 17 year olds charged with misdemeanors in North Carolina’s juvenile justice system by 2020. North Carolina is currently one of only two states in the nation that treats 16 and 17 year olds as adults in its criminal justice system, regardless of the



ACLU-NC Public Policy Fellow Terrence Wilson (left) and Policy Director Sarah Preston lobbied lawmakers on an array of issues this legislative session.

offense. ACLU-NC Policy Director Sarah Preston called the bill, which unfortunately died in the Senate, “a hugely important step toward ensuring that young people in our criminal justice system are not only protected, but given a chance to correct course.”

The ACLU-NC was also the only organization in the state to publicly oppose passage of two bills that could open the door to discrimination against students of different beliefs. S.B. 370 purported to clarify the rights of students to engage in private religious expression in schools and the role of teachers during such expression, but the ACLU-NC argued that the bill was unnecessary and could wrongly encourage public school personnel to take sides in student-led religious activity, making students with different beliefs feel excluded or ostracized. S.B. 719 requires public colleges and universities to recognize and grant funding and facilities to student groups that discriminate by ousting leaders or members based on their personal beliefs. Both bills were passed by the legislature and signed by the governor.

## IMMIGRANTS’ RIGHTS

The ACLU-NC, along with business groups and other advocates, helped defeat a proposal in H.B. 369 that would have denied workers’ compensation to undocumented immigrants who were injured on the job.

## FREE SPEECH & ASSEMBLY

The General Assembly adopted new rules to regulate the public’s use of the State Legislative Building and its grounds in Raleigh. The ACLU-NC voiced concerns that the new rules could lead to selective enforcement against people of certain beliefs and published “know your rights” materials at [acluofnc.org](http://acluofnc.org) for citizens who want to petition lawmakers under the new rules.

## MEDICAL MARIJUANA

North Carolina took an important first step toward a comprehensive medical marijuana law by approving a limited measure that allows neurologists to recommend a marijuana-extract oil to patients suffering from intractable seizures and epilepsy. In a *Charlotte Observer* op-ed and press statements, the ACLU-NC called on lawmakers to extend their compassion to patients suffering from other conditions who could benefit from safe and legal access to marijuana but who are still wrongly treated as criminals under state law if they use marijuana to relieve their symptoms. ■

Read our legislative scorecard on [acluofnc.org](http://acluofnc.org) to find out how your representative voted!

# Salisbury Couple Win Wedding Contest, Petition Governor

**O**n April 25, Tamara Sheffield and Maryja Mee departed their hometown of Salisbury, North Carolina, on a “rock ‘n roll train” bound for their Fleetwood Mac-themed wedding in New York City.

College sweethearts who have been together for 24 years and co-founded Salisbury Pride in 2011, Sheffield and Mee were one of five couples living in states where marriage for same-sex couples is not yet legal who won \$5,000 toward the wedding of their dreams as part of the ACLU’s “My Big Gay (Il)legal Wedding” Contest.

Nearly 400 loving and committed couples from across the country living in states that do not have the freedom to marry entered the contest, and almost 200,000 votes were cast by friends, families, and



*Tamara Sheffield (left) and Maryja Mee of Salisbury won \$5,000 from the ACLU toward the wedding of their dreams as part of the ACLU’s “My Big Gay (Il)legal Wedding” Contest. Pictured right: ACLU-NC staff with Sheffield and Mee after the couple delivered a petition asking Gov. McCrory to support the freedom to marry.*

supporters. Sheffield and Mee, whose friends and family organized a social media campaign encouraging people to vote for the couple, were the top overall vote-getters.

“We’re like a lot of couples out there,” Tamara and Maryja said. “We’ve stuck by each other’s side through the ups and downs. And we’re involved in our local North

Carolina community. The only difference is we can’t get married where we live.”

ACLU-NC staff later accompanied the couple on May 15 as they delivered a petition with nearly 20,000 signatures to the Raleigh office of Gov. Pat McCrory that asked the governor to support the freedom to marry for all loving and committed couples. ■

## Rowan Co. School Board Allows Gay-Straight Alliances

**S**tudents in Rowan County public schools will be able to form Gay-Straight Alliances (GSAs) and receive the same school support as other student groups, after the county Board of Education voted in May to rescind a previous policy designed to prevent the clubs from meeting.

The ACLU of North Carolina had worked behind the scenes to offer legal support to the parents and students working to create support groups for LGBT students in Rowan County.

Though some community members testified against allowing GSAs in public schools, the school



*Members and supporters of the Rowan County PFLAG celebrate with ACLU-NC Legal Director Chris Brook after their school board rescinded its ban on GSAs meeting in county schools.*

board voted twice to support the new policy, which brings the school system in compliance with federal law.

Mike Clawson, whose two

daughters graduated from the Rowan-Salisbury School System but never had the benefits of GSAs, was among the local residents who testified about their importance. “Harassment and bullying are serious problems in our schools today, and unfortunately, lesbian, gay, bisexual and transgender students are the targets of a disproportionate share of these problems,” he said.

In recognition of the ACLU’s role in the policy change, the Salisbury-Rowan chapter of PFLAG gave ACLU-NC Legal Director Chris Brook an award for “helping us ‘be the change.’” ■

# CHAPTER UPDATES

## Western N.C. Chapter



**T**he Western North Carolina chapter of the ACLU-NC held its annual meeting on June 22 in Asheville. The chapter awarded the Evan Mahaney Champion of Civil Liberties Award to Buncombe County Register of Deeds Drew Reisinger and the Campaign for Southern Equality. Pictured from left: Diane Walton, Meghann Burke, and the Rev. Jasmine Beach-Ferrara with the Campaign for Southern Equality and Reisinger.

## Charlotte Chapter

**T**he Charlotte chapter of the ACLU-NC held a forum on immigration issues at its August 3 general meeting after previously screening the documentary “From the Back of the Line” about the deportation of undocumented immigrants and the breakup of their families. These events have been organized by the chapter’s Immigrants’ Rights Civil Liberties Team. The chapter is also working with the Charlotte-based Latin American Coalition, along with other immigrants’ rights groups, to seek to persuade the Mecklenburg County Sheriff to join other sheriffs around the country to stop detaining undocumented immigrants under an agreement with Immigration and Customs Enforcement (ICE). ■

Visit [acluofnc.org](http://acluofnc.org) to find your local chapter and sign up for email updates.

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