

# LIBERTY



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## With Just a Few Days Left in the 2009 Session, the ACLU of North Carolina Celebrates Big Victories in the NC General Assembly But Still Remains Vigilant Watchdog Over Pending Legislation

As the House and Senate negotiate over final details of the 2009-2010 budget, the ACLU-NC is pleased to report to our members that we have won a number of hard fought victories for students' rights at the North Carolina General Assembly this year. Governor Perdue has already signed three ACLU-NC priority bills into law that were at the top of our Youth agenda. However, there are still several bills pending that would have a big impact on civil liberties in North Carolina, so our work in the state legislature is far from over.

### First, the Good News!

Many of you have been tracking the ACLU-NC and the work of our entire coalition on the **School Violence Prevention Act** and you know that this has been a long, hard fight to protect students from being bullied on the basis of sexual orientation or gender identity in addition to race, religion, disability, and a number of other qualities that students cannot — and should not have to — change. Senate Bill 526, commonly known as the “bullying bill,” has been in the works for several years, and after getting language added to protect students' free speech rights, the ACLU-NC played a key leadership



Sarah Preston, the ACLU-NC's Legislative Counsel, spoke in support of Senate Bill 461 (“Racial Justice Act”) at a press conference organized by the Historic Thousands on Jones Street (“HK on J”) coalition in May about the importance of a color-blind criminal justice system. Also pictured, from left to right, are: Rep. Larry Womble (D-Forsyth); Rev. Dr. William Barber II, NC-NAACP President; Sen. Floyd McKissick (D-Durham); Rep. Earline Parmon (D-Forsyth); Ken Rose, attorney with the Center for Death Penalty Litigation; and Rep. Annie Mobley (D-Bertie, Gates, Hertford, Perquimans).

role in the coalition working to pass this landmark legislation for North Carolina's children. We rejoiced with all of our allies in the children's rights and LGBT community when it finally passed both houses and was signed into law by the Governor on June 30th. The passage of SB 526 marks the first time that the equal rights of LGBT people are affirmed by law in North Carolina, a substantial step forward for the com-

munity. This wouldn't have been possible without the work of the entire coalition and all of you who contacted your legislators to urge their support!

In addition to the bullying bill, the ACLU-NC is pleased to report that House Bill 218, the **Parent and Student Educational Involvement Act**, passed both houses and was signed into law by the Governor on

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June 5th. This was one of our early victories in the 2009 session and will ensure that parents will receive the information they need to help their child if he or she faces expulsion or a long-term suspension of more than ten (10) days. The law requires that this information must be delivered to the parent within one workday of the recommendation for expulsion or long-term suspension. It also requires that the information must be delivered to the parent in writing and must include an explanation, in plain language, of what the student is accused of doing and what the parents' and student's rights are with regard to any appeals process.

The ACLU-NC recognized the need for such protections due to our work on the "school to prison pipeline" issue, referring to the phenomenon of students of color and students with disabilities being subjected to disproportionately harsh punishment compared to their white and non-disabled counterparts and routed from our schools directly into our juvenile justice system. The ACLU-NC's Legislative Counsel, Sarah Preston, wrote the initial bill, built a coalition to support it, and took the lead

in lobbying on the bill.

### **Comprehensive Sex Ed: Mixed Results, but Overall Progress**

The third important victory we are pleased to report is the passage of House Bill 88, the **Healthy Youth Act**. The ACLU-NC took a leading role in the Healthy Youth NC coalition which was supporting legislation to get comprehensive sexuality education taught in our public schools. Since 1995, North Carolina has mandated that abstinence-only curricula must be taught unless school districts overcame onerous hurdles to get public approval for the teaching of comprehensive sex education.



As introduced in February 2009, HB 88 would have required all public schools to offer *both* abstinence until marriage *and* comprehensive sex education and allow parents to decide in which curriculum to enroll their student. The reality is that where this has been tried (e.g. New Hanover County), the vast majority of parents opt for comprehensive sex education, to give their teens as much accurate information as possible about pregnancy prevention and the prevention of sexually transmitted infections.

HB 88 passed the House more or

less intact, but the Senate amended the bill to remove the option for parents to choose just one or the other curriculum. Instead, the new language enrolls every child in an abstinence-only-until-marriage curriculum but adds a comprehensive sexuality education component to that class, which could be conflicting and could undermine students' trust in contraceptives by first subjecting them to the same misleading, biased curricula taught under the 1995 law. Many Senators mistakenly believed that this was a more effective way to get teens the information they need to make healthy decisions. However, trying to do this without revisiting the current abstinence until marriage law mandated since 1995 will likely only result in confusion, mixed messages, and a continuation by some school districts to use inaccurate, biased, and shame-based curricula. Nevertheless, the House agreed to the Senate's version of the bill, and on June 30th, Governor Perdue signed it into law.

Despite its obvious flaws, the Healthy Youth Act is a huge step forward in preparing kids so they can make healthy choices for a lifetime. The ACLU-NC will continue

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AMERICAN CIVIL LIBERTIES UNION  
of NORTH CAROLINA

## Join our Action Alert E-mail List...

### Be a part of the solution!

Join the ACLU-NC's Action Alert list and you will not only learn about upcoming ACLU events in your area, but you will also receive e-mail alerts on pending legislation, complete with talking points and contact information for communicating with key legislators. We need you!

Our strength truly lies in our numbers, so please fill out this form and return it to us at ACLU-NC, P. O. Box 28004, Raleigh, NC 27611 or e-mail the information to MeShon Watkins, Membership Coordinator, at [aclunc\\_membership@nc.rr.com](mailto:aclunc_membership@nc.rr.com).

YES! I want to help! Please sign me up for the Action Alert List.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Work Phone #: \_\_\_\_\_

Home Phone#: \_\_\_\_\_

E-mail: \_\_\_\_\_

If you know it:

Congressional District: \_\_\_\_\_

NC House District: \_\_\_\_\_

NC Senate District: \_\_\_\_\_



# ACLU

AMERICAN CIVIL LIBERTIES UNION  
of NORTH CAROLINA

## ***Special Announcement!***

Attention, freedom fighters! If you believe in the Bill of Rights and want to see those cherished freedoms preserved ...

Then please help us spread the word to other like-minded folks in North Carolina about this limited time offer!

In order to encourage more North Carolinians to join in the fight to protect civil liberties in the Tarheel State, supporter J. Adam Abram of Chapel Hill has issued the following challenge:

**For anyone in North Carolina who has never financially supported the ACLU before, Mr. Abram will match that person's membership dues and/or tax-deductible contribution up to a total of \$5,000.00.**

So please ask your friends, family and coworkers to make a tax-deductible contribution to support the ACLU of North Carolina Legal Foundation or ask them to join the ACLU-NC as a new member, and **their contributions or dues will be matched dollar for dollar if received by December 31st!**

Just have them fill out the contribution form on Page 17 or the membership form on Page 18 and mail it with their payment to:

**ACLU-NC Abram Challenge  
P.O. Box 28004  
Raleigh, NC 27611-8004**

Or to charge a contribution by phone using MasterCard or Visa, they can call (919) 834-3466 and ask for Perryn Reyelts.

# Legislative Update

*(Continued from page 2)*

our work with our coalition and other stakeholders to fix the problems with the abstinence-only curricula through the implementation of the new law and if necessary, through an additional legislative push in 2011.

## Hard-Won Victories in the Fight for Racial Justice

The ACLU-NC has played a key leadership role in advocating for two priority bills to address racial profiling on our agenda this session. The first is SB 464, **Prevent Racial Profiling**, but unfortunately this bill was gutted in the Senate Judiciary I Committee, so while we still support what remains in this bill, it is much weaker than when originally introduced.

Currently, law enforcement officers are required by state law to report certain identifying characteristics such as the race, ethnicity, age, and gender of people who are stopped for traffic violations, but no such reporting requirements are in place with regard to routine checkpoints, such as drivers' license checkpoints. As the ACLU-NC hears more and more reports of law enforcement literally surrounding Latino churches and bars with drivers' license checkpoints, it is obvious that in some parts of the state, these checkpoints are being used to target communities of color – especially Hispanic communities. The original version of SB 464 would have required the same statistics to be reported for checkpoints as are currently required for traffic stops, but this provision was removed in the Senate.

However, there are still several provisions of SB 464 that make the bill worthwhile, and after being passed by the Senate, we successfully garnered bipartisan support in the House, where it passed over-

whelmingly on July 29th. SB 464 still strengthens existing North Carolina law by requiring traffic stop data to be reported within 60 days of the close of each month and by making it easier to identify whether one or more officers are profiling or whether there may be another explanation for stops that seem to target people of color.

SB 464 has passed both houses now and awaits the Governor's signature at the time of this writing.

**In addition, we are thrilled to report a huge victory in the final passage of SB 461, the Racial Justice Act!** The Racial Justice Act allows a defendant who has been sentenced to death to challenge that sentence if he or she can prove that race played a significant role either in the prosecutor's decision to seek the death penalty or in the actual sentencing. This will help bring North Carolina closer to achieving a race-neutral criminal justice system.

The bill initially passed the Senate in May, but not before the Senate adopted a terrible amendment by Senator Phil Berger (R-Guilford, Rockingham) that had nothing to do with racial justice and would have effectively restarted the death penalty. Executions are currently on hold in North Carolina due to ongoing litigation.

However, the tireless efforts of the ACLU-NC and all of our coalition partners paid off in the end. The House refused to go along with the Berger Amendment, passed the Racial Justice Act intact, and sent it back to the Senate for another vote. After many ups and downs and tremendous pressure from all of our members and supporters, we finally saw the good version of this bill pass the Senate on August 5th by a vote of 25-18, without the Berger Amendment. This hard-won victory was the culmination of a three-year struggle, and the Governor is expected to sign SB 461 into law at the time of this writing.

## Now the Bad News ...

The Governor recently signed into law SB 920, **Probation Reform**, which while well-intentioned, contains some provisions that further erode the Fourth Amendment by greatly expanding warrantless searches of probationers and allowing juvenile records to be opened in certain circumstances even after the person has exited the juvenile justice system. The ACLU-NC was able to get some narrowing language into this bill, but we were disappointed with the final version that passed.

We are also continuing to lobby against a number of pending bills that threaten to erode civil liberties, including SB 32, requiring employers to use the demonstrably flawed E-Verify program to determine whether new hires are eligible to work in the U.S., and HB 1261, a bill that criminalizes "cyberbullying." The ACLU-NC is in favor of laws that prevent bullying and harassment, and we laud the intentions of this bill. Cyberbullying is every bit as pernicious as in-person bullying, and we want to help keep kids safe. We have submitted recommendations for amendments to HB 1261 that would get at this problem without infringing on speech protected by the First Amendment, but so far, the bill sponsor has not accepted our amendments, so we still have a lot more work to do. HB 1261 has passed the House and is now in a Senate Judiciary Committee where it is getting closer scrutiny thanks to our efforts.

We have many more bills that we will be working on this year and in the 2010 "short session," so please join our Action Alert list (see bottom of Page 2) and help us defend the Bill of Rights in the North Carolina General Assembly.



## ACLU-NC Legal Foundation Successfully Defends Free Speech Rights of Tenants' Rights Organizers Arrested in Wilson County



Jim Grant and Yolanda Davis of the Human Justice Coalition

On April 1, 2009, the ACLU-NCLF received a request for assistance from members of the Human Justice Coalition in Wilson. The Human Justice Coalition assists low-income folks with various issues, including helping people organize tenants' rights associations. Two members of this group, Jim Grant and Yolanda Davis, had been banned from an apartment complex, even though tenants had called the group and asked for their help after raw sewage was backing up into many apartments and management refused to fix the problem. After receiving further calls from tenants, Mr. Grant and Ms. Davis visited a tenant at the

tenant's request. While Mr. Grant and Ms. Davis were on the property visiting with the tenant who had invited them, management informed them for the first time that they had previously been banned from the property — which came as news to Mr. Grant and Ms. Davis — and then called the police, who arrested Mr. Grant and Ms. Davis for second-degree trespass.

The ACLU-NCLF's Legal Director, Katherine Lewis Parker, provided representation in their criminal case, in light of strong arguments that the tenant had a right to have Mr. Grant and Ms. Davis on the premises as guests, both under North Carolina landlord-tenant law

and HUD regulations, as well as under the First and Fourteenth Amendments. Apparently, the District Attorney was persuaded by our arguments and dropped the charges against Mr. Grant and Ms. Davis.

"It is so rewarding to be able to help people like Jim and Yolanda, who are truly making a difference in people's lives," said Jennifer Rudinger, ACLU-NC Executive Director.

We are working to ensure that Mr. Grant and Ms. Davis will have no further problems upon entering the property at any tenant's invitation.

## ACLU-NC Legal Foundation Assists Students Prohibited from Forming Gay-Straight Alliance Club at Swansboro High School in Onslow County

In April 2009, the ACLU-NCLF was contacted by students in Onslow County concerning their ongoing difficulty in starting a Gay-Straight Alliance student organization (GSA) at Swansboro High School. The students had been trying to get permission to form their GSA since the beginning of the school year. They had followed all the rules, secured a faculty advisor, enlisted more than 40 students who wanted to join, adopted a mission statement and a list of goals and activities, and even agreed to change the name of the club so it would not contain the word "Gay" if that would make the school officials more comfortable. (Of course, had the students contacted the ACLU-NCLF at that time, we would have advised them that they should not feel they have to change their name and the school cannot require them to do so.) Nevertheless, all year long, the students got nothing but excuses, delays, and a complete runaround until they fi-

nally contacted the ACLU-NCLF at the end of April.

The students advised us that they are interested in forming this student organization in order to combat anti-gay harassment and discrimination and to educate the school community about the importance of equal-

*"I told [the assistant principal] that two students called me a 'faggot' and a 'queer.' [The assistant principal] then asked me, 'Well, what do you prefer to be called?' That made me speechless!"*

— email sent to the ACLU-NC in April from a student at Swansboro High School

ity and tolerance for diversity. Further – and incredibly – one of the students approached a school official to ask about forming a GSA and to report anti-gay harassment by other students, and in response, *this*

*very school official* subjected the student to anti-gay harassment!

"The way these students have been treated not only by other students but by high-ranking school administrators perfectly illustrates the need for a GSA at Swansboro High," said Katherine Lewis Parker, ACLU-NCLF Legal Director.

The ACLU-NCLF sent a letter to the Onslow County school board attorney, advising the school district of its legal obligations under the Equal Access Act. On May 28, 2009, the school board attorney responded, stating that "a student request to start a Gay-Straight Alliance Club will be provided the same access to school resources and privileges, and subject to the same school rules and procedures applicable to non-curriculum clubs."

As the new school year begins, the ACLU-NCLF has reached out to students at Swansboro High School to let them know that they should contact us immediately if they have any further problems starting their GSA.

## ACLU-NCLF Defends Female High School Student in Cumberland County Who Was Denied the Right to Wear Tuxedo to Prom

The father of a Fayetteville high school student contacted the ACLU of North Carolina Legal Foundation (ACLU-NCLF) after his daughter was told that she was not allowed to wear a tuxedo to her prom. Specifically, the 11<sup>th</sup> grade student was told by school officials that girls were being required to wear dresses to prom, and only boys could wear

tuxedos. ACLU-NCLF Legal Director Katherine Parker contacted the school board attorney to object to this antiquated, discriminatory policy and successfully persuaded the school district to back down and to allow girls to wear tuxedos to prom if they so choose.

"It is amazing that in this day and age, our office still gets calls every year from boys who are told

they cannot wear prom dresses and girls who are told they cannot wear tuxedos to prom or pants under their graduation gowns," said Jennifer Rudinger, ACLU-NCLF Executive Director. "Schools have no business imposing these rigid gender stereotypes on our young people, and we are happy that we have been able to help whenever we have heard about these cases."

The ACLU of North Carolina Legal Foundation  
is looking for a few good men ... and women!

If you are an attorney licensed in North Carolina who would like to  
volunteer as a Cooperating Attorney or help screen cases as a  
member of our Legal Committee, please contact Katherine Lewis  
Parker, Legal Director, at [acluncklp@nc.rr.com](mailto:acluncklp@nc.rr.com).



ACLU-NCLF Legal Director Katherine Lewis Parker Promotes the “Abram Challenge” and Recruits New Volunteer Attorneys at the North Carolina Advocates for Justice conference in Sunset Beach in June.



## New Standardized 287(g) Contract Between the U.S. Department of Homeland Security and Local Law Enforcement: Will North Carolina's Justice Community See Any Difference?

After a congressional request and multiple Freedom of Information Act (FOIA) requests, the Department of Homeland Security recently released a new standardized Memorandum of Agreement (MOA) that it will use in its expanded 287(g) program granting state and local law enforcement agencies the authority to enforce federal immigration law. The 287(g) program has led to serious civil rights abuses and public safety concerns nationwide, especially in North Carolina, a state that has become the testing ground for new immigration enforcement initiatives. According to an analysis by the ACLU, the changes in the new MOA do nothing to solve these problems.

"The new standardized MOA makes no serious attempt at discouraging illegal racial profiling or reducing the conflict between sound community policing principles and the expansion of this program," said Omar Jadwat, staff attorney with the ACLU Immigrants' Rights Project.

Section 287(g) of the Immigration and Nationality Act provides for the delegation of immigration enforcement authority in certain circumstances to specific state or local agencies. Previously, MOA's between U.S. Immigration and Customs Enforcement (ICE) and local law enforcement varied by jurisdiction, but the new standardized MOA would govern all 287(g)

partnerships. This has a major impact in North Carolina, where community advocacy has played a strong role in the development of communication with public officials and law enforcement agencies on this issue.

North Carolina currently has eight 287(g) agreements in operation across the state – the most counties in any state in the U.S. with the program – and a ninth is slated to take

age agencies from discussing the program or developing new relationships with local communities.

"The new agreements do nothing to assuage fear in the community, but the ACLU-NC and our allies will utilize all measures available through the new agreements to report profiling, misuse or abuse by local law enforcement," said Rebecca Headen, Racial Justice Project Attorney at the ACLU-NCLF.

Go to [www.aclu.org/immigrants](http://www.aclu.org/immigrants) to view the new MOA and the ACLU's side-by-side comparison of the two programs. If you are interested in getting involved in advocacy around this important civil rights issue that will continue to have a major effect on policing in all communities, please contact Rebecca Headen at [aclulegal@nc.rr.com](mailto:aclulegal@nc.rr.com).



Rebecca Headen and Katy Parker of the ACLU-NC Legal Foundation frequently give "Know-Your-Rights" presentations to communities across North Carolina, to educate vulnerable populations about their rights if they have any encounters with law enforcement. (Pictured above, Rebecca and Katy give a 'Know-Your-Rights' training in Greensboro at an event sponsored by FaithAction International House in June.)

effect in Guilford County with the new MOA announcement. Hundreds of North Carolina residents have disappeared through deportation after being arrested for minor traffic violations, and many more have disappeared into isolation within the state because they fear encounters with police. Local immigrants' rights advocates are concerned that the standardized MOA will lead officials to defer to ICE instead of continuing an open line of communication in locations where there has been some transparency and will further discour-



## MEMBERSHIP SURVEY

Please take a moment to fill out this brief **ANONYMOUS** survey and return it to the ACLU-NC in the envelope provided so that we can better understand who our members and supporters are. You may choose to skip any questions that you do not wish to answer. All surveys are anonymous and we respect your privacy. Thank you in advance for your participation.

### DEMOGRAPHICS

1. Gender: ☐ MALE ☐ FEMALE
2. Race/Ethnicity: ☐ WHITE ☐ BLACK ☐ HISPANIC ☐ ASIAN  
☐ NATIVE AMERICAN ☐ OTHER (please describe) \_\_\_\_\_
3. What is your current City and County: \_\_\_\_\_
4. Age: ☐ <19 ☐ 20-29 ☐ 30-39 ☐ 40-49 ☐ 50-59 ☐ 60+
5. What is your sexual orientation (if you wish to share this information with us):  
☐ HETEROSEXUAL ☐ GAY/LESBIAN ☐ BISEXUAL ☐ OTHER
6. In terms of your political outlook, do you usually consider yourself:  
☐ VERY CONSERVATIVE ☐ SOMEWHAT CONSERVATIVE ☐ MODERATE  
☐ SOMEWHAT LIBERAL ☐ VERY LIBERAL ☐ OTHER \_\_\_\_\_
7. Are you currently registered to vote in North Carolina? ☐ YES ☐ NO
8. How would you describe your political affiliation?  
☐ DEMOCRAT ☐ REPUBLICAN ☐ INDEPENDENT / UNAFFILIATED  
☐ GREEN ☐ LIBERTARIAN ☐ SOCIALIST ☐ OTHER \_\_\_\_\_

### ACLU MEMBERSHIP

9. Are you a current member of the ACLU? ☐ Yes ☐ No  
If not, why not:  
\_\_\_\_\_
10. If you are currently a member, how long have you been an ACLU member?  
☐ <1 year ☐ 1-3 years ☐ 4-6 years ☐ 7-9 years ☐ 10+
11. If you are a member of the ACLU, how did you hear about us?  
☐ Newspaper or magazine article ☐ TV or radio ☐ Attended an event  
☐ Talked to a friend or family member ☐ Internet (e.g. Website, social networks)  
☐ Received an email or letter from the ACLU inviting me to join

(See reverse side.)

12. From what you can recall, what initially got you interested in supporting the ACLU?

- ☐ The organization's basic philosophy and guiding principles
- ☐ A particular issue or case that was in the news
- ☐ An ACLU member, supporter or employee
- ☐ Other (please describe) \_\_\_\_\_

If it was a particular issue or case, which issue or case was that?

- ☐ Torture      ☐ Indefinite detention of prisoners without charge or trial, e.g. Guantanamo
- ☐ LGBT Rights      ☐ USA PATRIOT Act, abuses of power      ☐ Reproductive Rights
- ☐ Wiretapping/Spying on Americans      ☐ Church/State Issues      ☐ Privacy
- ☐ Free Speech      ☐ Racial Justice      ☐ Other \_\_\_\_\_

13. How important is each of the following to you personally on a scale from one to five, where five means it is an extremely important priority to you and one means it is not very important?

CRIMINAL JUSTICE	1	2	3	4	5
ABOLISHING THE DEATH PENALTY	1	2	3	4	5
DISABILITY RIGHTS	1	2	3	4	5
FREE SPEECH	1	2	3	4	5
STUDENT & YOUTH RIGHTS	1	2	3	4	5
HUMAN RIGHTS	1	2	3	4	5
LESBIAN & GAY RIGHTS	1	2	3	4	5
POLICE PRACTICES	1	2	3	4	5
PRISONERS' RIGHTS	1	2	3	4	5
PRIVACY & TECHNOLOGY	1	2	3	4	5
RACIAL JUSTICE	1	2	3	4	5
RELIGIOUS LIBERTY	1	2	3	4	5
REPRODUCTIVE FREEDOM	1	2	3	4	5
RIGHTS OF THE POOR	1	2	3	4	5
SAFE & FREE (PRESERVING GOVERNMENT ACCOUNTABILITY AND TRANSPARENCY POST-9/11)	1	2	3	4	5
VOTING RIGHTS	1	2	3	4	5
WOMEN'S RIGHTS	1	2	3	4	5
IMMIGRANTS' RIGHTS	1	2	3	4	5
OTHER: _____	1	2	3	4	5

14. Are there any suggestions and/or comments you would like to share with the ACLU-NC?

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15. If you would like to start a chapter in your area or volunteer with the ACLU-NC in your local area, please contact MeShon Watkins, ACLU-NC Membership Coordinator, at 919-834-3466 or by e-mail at [aclunc\\_membership@nc.rr.com](mailto:aclunc_membership@nc.rr.com).

## ACLU-NC's Wall of Shame: Racial Justice Act's Attempted Hijackers

The North Carolina Coalition for a Moratorium, of which the ACLU-NC is a founding member, has been working to enact SB 461, the Racial Justice Act, for almost three years. On August 5, 2009, we finally saw our efforts pay off when a strong version of this landmark legislation was sent to the Governor for her signature after passing both the House and the Senate. The Racial Justice Act will be a crucial step towards addressing racial discrimination in the capital punishment system, allowing a defendant with a capital charge or sentence of death to challenge the death sentence if he or she can show (with statistical evidence) that race played a significant role in the decision to seek or hand down the death penalty.

As Senator Floyd McKissick Jr. (D-Durham), the bill's sponsor, said, "Let's not be naïve. [Race] has been a factor at times in the past, and we need to recognize that." Proving racial discrimination in this context could result in the defendant being sentenced to life in prison without the possibility of parole instead of receiving the death sentence. The Racial Justice Act will not only provide an option for recently charged or convicted defendants in capital cases, but it is also retroactive and will provide assistance to people convicted as far back as the 1980's if race was a factor in their sentencing.

Although we celebrated a happy ending with the final passage of SB 461 in August, the bill temporarily fell victim to some odious meddling this legislative session that threatened to turn its purpose on its head. In May, Senate Minority Leader Phil Berger (R-Guilford, Rockingham) successfully ran an

amendment to the Racial Justice Act on the Senate floor that would have effectively restarted executions, which are currently on hold in North Carolina due to ongoing litigation. His amendment would also have prevented this new law from applying retroactively, so that inmates currently on death row who have previously argued that racial discrimination played a role in their sentencing would not have been able to use this new law to seek justice in their cases.

The fact that in the past two years, three innocent African-American men were freed from death row in North Carolina after being completely exonerated is a sobering reminder that the system has problems and is not colorblind.

Even those who are in favor of the death penalty should still support more scrutiny of the capital punishment system when there is such compelling evidence that the system is operating unjustly or with bias. This destructive amendment was initially adopted by the Senate but was removed in the House. Having passed the House without Sen. Berger's amendment, the bill was sent back to the Senate where our voices prevailed — but it was a hard-won victory indeed, and a very close call!

And so, for attempting to turn a bill intended to improve fairness and racial equality in North Carolina into a bill that would help execute people unjustly, Senator Phil Berger and all those in the Senate who supported his amendment are the new dishonorees on the ACLU-NCLF Racial Justice Project's "Wall of Shame."

## INTERNATIONAL HUMAN RIGHTS AWARD —

### NOMINATIONS DUE TUESDAY, SEPT. 22nd

This Award has been presented annually since 1996 by the Human Rights Coalition of North Carolina of which the ACLU-NC and our Wake County and Western NC chapters are members. The nominee must be a resident of North Carolina who has made a significant contribution to international human rights.

The Award will be presented at a dinner in Raleigh on Tuesday, December 9th. Nominations must be received on or before Tuesday, September 22nd. A nomination should include the following: (1) Nominee's work and activities in support of international human rights; (2) Impact of nominee's human rights activities; (3) Biographical information about the nominee including other awards he/she may have received; (4) Information about nominator's relationship to the nominee; (5) Supporting letters (up to 3) and any other supporting documentation. The name, address, phone number, and e-mail address for nominee and nominator should also be included.

Nominations and inquiries should be directed to the Human Rights Coalition of North Carolina, c/o Joyce Scapicchio, 5400 Neuse Forest Road, Raleigh, NC, 27616. E-mail [jmscapicchio@yahoo.com](mailto:jmscapicchio@yahoo.com); telephone (919) 876-0501. FAX - same as phone.



## *In Memoriam ...*

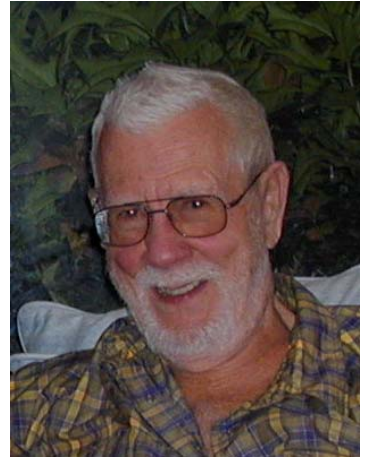
### **The ACLU-NC Fondly Remembers Two of Our Most Dedicated Supporters Who Have Passed On This Year, C.B. “Chick” Squire and Janet Proctor**

**E**ditor, author and longtime ACLU-NC supporter C.B. “Chick” Squire passed away on January 4, 2009, at the age of 88. Squire was the husband of noted author Elizabeth Daniels Squire, who died in 2001, and he is survived by three sons (Hart, Mark and Worth Squire), seven grandchildren and four great-grandchildren.

Squire was a noted journalist with a career that spanned almost seventy years, including a four-year stint in Beirut, Lebanon, in the 1950's, and included positions with news organizations including Newsweek, CBS News, the New York Daily News, The New York Times, The Chicago Tribune, London Illustrated News, and many others. He served from 1942 - 1946 as a volunteer ambulance driver for the American Field Service (AFS) with the British Army in the Middle East, North Africa, Italy and India, for which he received various honors and awards. He was a founding member of the AFS International Scholarship Program and was instrumental in securing veterans recognition for AFS volunteers who served with Allied forces in World War II. In 1999, he received the Oscar Arias Foundation Peace Award.

In North Carolina, where he lived from 1972 until the end of his life, Squire worked as an editorial consultant and freelance writer. He also served as trustee or board member for numerous organizations, including the North Carolina and Western Carolina chapters of the American Civil Liberties Union. When asked why his father was such a staunch supporter of the ACLU of North Carolina for so many years, his son Worth wrote:

I think Chick believed that the core of our freedom as a society resides in our rights as individuals. I often say to people that one of the highest compliments that could be paid to someone in our house when I was a child was to say ‘(s)he’s such a character!’ I can still hear the warmth and affection in their tone of voice when either of my parents said that about someone. In a larger sense, I think that both of my parents believed very strongly that creativity and freedom of expression - cultural, artistic, spiritual, personal, and political - were vital to the growth of our society, and that the ACLU protected that freedom in the most vital and important ways, and at the most important times. I know he was very proud of the work [the ACLU does] and of his involvement with [the ACLU of North Carolina].



**L**ifelong activist for women's equality and the cause of feminism, World War II Navy veteran, and dedicated public servant Janet M. “Jan” Proctor passed away on January 26, 2009, at the age of 85. Born and raised in Michigan, Proctor joined the Navy as a communications specialist shortly after high school. Although Proctor had many interests, including art, theater, music, travel and politics, all who knew her are quick to point out that her greatest passion was the struggle for equal rights for women. She took pride in the fact that she was born in 1923, the same year that Alice Paul drafted the first Equal Rights Amendment, and she was an avid supporter of the organization Paul founded, the National Woman's Party, which Proctor described as “the only women's organization that, for me, endures over the years to pursue my goals as a woman.”

In 1972, Proctor filed a complaint of sex discrimination with the Equal Employment Opportunity Commission. In a legal battle that would last for 16 years, she ultimately proved that she was being paid less than her male counterparts at the N.C. Medical Loan Program and struck a crucial blow for equal pay for all female state employees in North Carolina. NC House Representative and former ACLU-NC Executive Director Deborah Ross says of Proctor:

Jan was a passionate and forceful advocate for women's rights. Her commitment to equality stemmed from personal experience with workplace discrimination. Jan also cared deeply about helping other women. She organized, marched, raised money and was not afraid to fight for the things she believed in.

## ACLU of North Carolina Hosts Panel Discussion on the Future of the Movement for Lesbian / Gay / Bisexual / Transgender Equality at Annual Statewide Membership Meeting in Charlotte

This year's Annual Membership Meeting was held on May 9th at the Lesbian and Gay Community Center in Charlotte. ACLU-NC members from the Charlotte area and from other parts of the state participated in an engaging and lively discussion about the struggle for equality for LGBT persons throughout North Carolina and across the nation.

Topics discussed by our panelists Mark Kleinschmidt (then-ACLU-NC Board President), Matt Comer (Q-Notes) and Monica Simpson (Charlotte Black Gay Pride) included the legal and political status of the rights of same-sex couples to marry; the rights of LGBT persons to adopt children and raise families; the challenges facing LGBT students in North Carolina's schools; efforts to push for equal protection in the employment setting; and pending legislation such as the North Carolina



ACLU-NC Executive Director Jennifer Rudinger (left) moderated the panel discussion on LGBT rights and the future of the Equality movement as panelists Mark Kleinschmidt, then ACLU-NC President; Matt Comer, Editor of Q-Notes; and Monica Simpson, activist with Charlotte Black Gay Pride engaged questions, comments and ideas for action from the audience.

School Violence Prevention Act (a/k/a the "bullying bill") then pending in the North Carolina General Assembly; and proposed amendments to the federal hate crimes statute currently pending in Congress.

To conclude the meeting and to encourage continued activism for equality and fairness, ACLU-NC

Board member Dr. Anjail Rashida Ahmad inspired the crowd with a poetry reading.

This event was a great success due to the help of the ACLU chapter in Charlotte. We attracted roughly 40 people to attend and recruited new members, supporters and volunteers to the ACLU-NC.



The ACLU-NC opened its Annual Membership Meeting up to the public, and approximately 40 people came to participate in a discussion of how we can best advance the cause of full equality for LGBT North Carolinians.



ACLU-NC Board member Anjail Rashida Ahmad delivered a powerful and poignant reading of three poems to end the meeting.



## ACLU-NCLF Legal Director Katy Parker Explains the Difference Between Free Speech and “True Threats” at NCSU Forum

The Wake County ACLU Chapter hosted its annual Slater Newman Debate on the North Carolina State University (NCSU) campus on April 21, 2009. This annual event serves to bring light to current issues surrounding civil liberties using a panel discussion to explore both sides of the debates. This year the topic was “Free Expression? Hate Speech? A Panel Discussion Exploring First Amendment Rights, Hate Speech, and the Free Expression Tunnel.”

On the night of the presidential election in November 2008, four NCSU students spray painted vicious racial slurs about then President-elect Obama in the “free expression tunnel” on the campus in Raleigh. The incident caused an enormous outcry both on campus and in the community at large, as people of all races, ages, backgrounds and political stripes demonstrated in opposition to the racist and hateful words painted on the tunnel wall. The ACLU-NC joined other members of the community in expressing our opposition to the slurs spray painted on the tunnel

and our support for racial justice and equality for all people, but we also pointed out that censorship is not the answer.

This incident spurred a debate about freedom of speech and the implication of hate speech codes on our college campuses. It is important to note that this incident was investigated by the U.S. Secret Service, the State Bureau of Investigation, the university, and the local prosecutor’s office, and all concluded that the students did not intend to actually commit an act of violence or to cause any physical harm to



The panel discussion, sponsored by the NCSU pre-law program and the Wake County ACLU, featured (left to right) Professor E. Gregory Wallace of the Campbell University School of Law, ACLU-NCLF Legal Director Katy Parker, and Professors Shannon Gilreath and Michael Curtis of Wake Forest University School of Law.

any person. Therefore, the ACLU-NCLF wrote a letter to UNC President Erskine Bowles, explaining the difference between hate speech, which as offensive as we may find it to be, is nonetheless protected by the First Amendment, and speech or expressive conduct that involves a real intent to do harm or violence, a “true threat,” which is not protected speech and may be punished or criminally prosecuted.

**To read the ACLU-NCLF’s November 2008 letter, written after the incident at NCSU, go to our website at [http://www.acluofnorthcarolina.org/files/ACLU-NCLF\\_Letter\\_to\\_Erskine\\_Bowles.pdf](http://www.acluofnorthcarolina.org/files/ACLU-NCLF_Letter_to_Erskine_Bowles.pdf)**



Senator Ellie Kinnaird

Mark Your Calendar!

The *ACLU of Wake County* cordially invites you to attend its

**25<sup>th</sup> Annual W.W. Finlator Award Dinner**

**Thursday, November 12, 2009**

NCSU University Club  
4200 Hillsborough Street  
Raleigh, NC 27606

Cash Bar 6:00 p.m., Dinner 7:00 p.m.

*Senator Eleanor G. (Ellie) Kinnaird – 2009 W.W. Finlator Award Recipient*  
*Ian Palmquist – Keynote Speaker*

**Tickets \$45.00 per person** — Tickets must be prepaid; they will not be sold at the door.  
Contact: Stephanie Kien, [sdkien@yahoo.com](mailto:sdkien@yahoo.com)



Ian Palmquist



## ACLU-NC Regional Chapter Updates

### Appalachian State University ACLU Chapter by Clark Anderson

The Appalachian State University ACLU Chapter is excited about recent developments regarding our university's trademark and licensing policy. Since early Fall 2008, we believed ASU's strict trademark rules and licensing approval process overreached and infringed on free speech. Our members expressed concerns about the university asserting control over items, such as apparel, if they reference the university. Individuals should have the right to make a social commentary T-shirt without the university's approval, even if the shirt criticizes Appalachian State and contains university trademarked terms. However, shirt designs were disapproved if they did not represent the university in a positive light.

At first, administrators refused to rewrite their policy to make it clear that the university could not control shirts/apparel that use university trademarks in a fair use and free speech context. Then, the state ACLU-NC Legal Foundation, which helped us from the beginning, called the university, requested public records of the approval process, and sent Appalachian State a letter addressing the issue. When the state office contacted the university, the administrators said they were now open to changing the policy.

In late June, the university proposed many revisions to the trademark and licensing policy including adding language stating, "Other activities, such as some non-commercial use of trademarks/logos, may or may not need to be licensed. Some activity may constitute fair use or free speech so as not to require license." Students will

now have a better understanding of their rights and of the limits on the university's trademark authority thanks to the ACLU-NCLF and everyone involved.

### Wake County ACLU Chapter by Michelle R. Kaufman

The Wake County Chapter of the ACLU-NC has been busy! We recently hosted our annual meeting, during which we celebrated our 40<sup>th</sup> anniversary as a chapter. We also sponsored our annual Slater-Newman Debate (story on Page 14).

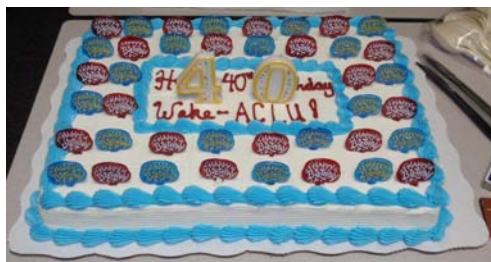


*Panel for the Wake County Chapter's 40<sup>th</sup> Annual Meeting: (left to right) Clay Stalnaker, Shirley Andersen, Cy King, Matt Quinn, and Slater Newman.*

### Annual Meeting

Our Chapter celebrated its 40<sup>th</sup> anniversary during our annual meeting on March 11, 2009. During the meeting, led by Acting President and Secretary Loretta Mershon, we elected new board members Stephanie Kien (Treasurer), Matthew Quinn (Vice President), Michelle Kaufman (representative to the State Affiliate), and Gigi Gardner.

Clay Stalnaker, who has been active on the civil liberties scene in Raleigh for over 40 years, led the panel



*Members enjoyed birthday cake at the Wake Chapter's annual meeting in March, to celebrate the Chapter's 40th anniversary.*

of speakers: Slater Newman, Shirley Andersen, Cy King, and Matthew Quinn. The panel discussed the rich history of the chapter and our goals for continuing to build its strength and influence in the local community in the future.

### W.W. Finlator Award Dinner

The Wake County chapter is making preparations to host its annual W.W. Finlator Dinner in November 2009. The Finlator Award is given to someone whose work represents an extraordinary effort to preserve, advance or advocate for

civil liberties in the local area. We are pleased to be honoring Senator Eleanor G. (Ellie) Kinnaird for the 2009 Finlator Award. Senator Kinnaird has represented the State's 23<sup>rd</sup> Senate District since 1997 and has been a

longtime advocate for the environment, education and social justice since she first became involved in civic and community activities in 1962. More recently, Senator Kinnaird has become nationally known for her strong opposition to the death penalty.

The keynote speaker for the evening will be Ian Palmquist, Executive Director of Equality North Carolina, a statewide group dedicated to securing equal rights and justice for lesbian, gay, bisexual and transgender (LGBT) people. Palmquist has served on Equality NC's staff since 1999 and as Executive Director since 2006. His talk is titled, "Charting a Course for LGBT Equality in North Carolina and Beyond."

Please see the ad on Page 14 for details on the Finlator Dinner.

## ACLU-NC Regional Chapter Updates

### Western North Carolina ACLU by Jim Cavener

**T**he WNC Chapter held its annual meeting on June 13th. This year's annual Evan Mahaney Champion of Civil Liberties Award was presented to Karen VanEman, Ph.D. VanEman, a retired professor from Wayne State Univer-



Alan Robinson presents the Evan Mahaney Champion of Civil Liberties Award to Dr. Karen VanEman

sity where she was also president of the regional Michigan Chapter of the ACLU, moved to Asheville a dozen years ago, joining our board and rising to president here in record time. She was also soon involved in work with a regional bookstore, with Asheville Justice Watch, Helpmate (where she was also president of the board of this program of support for battered women and children), Warren Wilson Presbyterian Church, the League of Women Voters and other regional social justice programs. Her recent activities include being a volunteer with the Brain Tumor Support Group of WNC -- as a survivor of brain surgery and chemotherapy -- and collecting oral histories for the UNC-A Collection of Asheville African-American History at the University's Ramsay Library, which collection is being named in her honor.

We also recognized outgoing chapter president, P.J. Roth, Esq. for his service this past year. Other business included the election of Geri

Solomon as a new member of the board and election of officers: Alexandra Cury, Esq., President; Jim Null, Vice-President; Clare Hanrahan, Secretary; Alan Scott Robinson, Treasurer; Barbara Seagrave, Archivist and Historian; and Jim Cavener, WNC Chapter Rep. to the state ACLU-NC board.

Our chapter has had several significant letters and Op-Ed pieces printed in local publications on topics such as homelessness, the death penalty and immigration. We table regularly at public events and are now planning to table at the annual Goombay festival in August. We are also working toward a public forum on civil liberties issues relating to the death penalty, which will occur in late September.

### ACLU of Charlotte by Paul Funderburk

**T**he ACLU of Charlotte has been quite active since our last update. At our monthly meeting on May 24<sup>th</sup>, we discussed our strategy to build the chapter going forward and are currently implementing that plan. We hope to work with other non-profits in the area and co-host events that will build our local chapter's profile. Afterwards, we'd like to translate that success into building coalitions to lobby local government on important civil liberties issues.

June was a busy month. We co-hosted a film screening of the documentary "Ask Not" with Generation Engage. The film centers around the U.S. Military's "Don't Ask, Don't Tell" policy, and the discussion afterwards was fruitful and engaging. ACLU of Charlotte Co-President Paul Funderburk and local activist Owen Sutkowski spoke at the event.



ACLU-Charlotte Chapter Co-President Paul Funderburk speaks to the audience at the screening of the documentary "Ask Not" in June. (Photo by Generation Engage.)

The state ACLU-NC organized a town hall forum on the School Violence Prevention Act, and we helped out with some publicity for that event. We also participated in the Immigrant Information Fair on June 20th at which our chapter member Diane Frederick discussed legislation that is before the General Assembly this term that affects the immigrant community.

We had a productive meeting on June 24th, with the co-presidents of our local Amnesty International chapter attending. Our meetings are now being held at the Charlotte Lesbian and Gay Community Center, which has been a valued ally in our pursuit of LGBT issues. We tabled at Black Gay Pride and Charlotte Pride on July 18th and 25th.

We also have other projects in the works. We are currently working with Planned Parenthood, NOW and NARAL to host an event centering around comprehensive sex education. Additionally, we are working to distribute Spanish language "know your rights" literature to the immigrant community at local tiendas and on radio programs. E-mail us at [aclucharlotte@hotmail.com](mailto:aclucharlotte@hotmail.com) to see how you can get involved.

## International Human Rights Committee

Report by Slater Newman, Chair

### **BILL OF RIGHTS DAY (DECEMBER 15), HUMAN RIGHTS DAY (DECEMBER 10) AND HUMAN RIGHTS WEEK (DECEMBER 10-16) - LET'S CELEBRATE!**

HERE'S HOW: (1) Ask your Mayor, University/ College President, Faculty and/or Student Senate to issue a proclamation. Last year, proclamations were issued by Governor Easley, by the Mayors of Asheville, Burlington, Carrboro, Cary, Chapel Hill, Durham, Greenville, Hendersonville, Louisburg, Marion, Morrisville, Pittsboro, Raleigh, Reidsville, Selma, Thomasville, Winston-Salem and Zebulon, and the Board of Commissioners of Durham, Henderson and Orange Counties. The Chancellor of North Carolina State University issued a proclamation for Bill of Rights Day which was presented at a ceremony at the Miami-NC State football game.

(2) Have a public reading of the Bill of Rights, the Universal Declaration of Human Rights (UDHR) and/or of a proclamation as was done last year in Carrboro, Chapel Hill, Durham, Hillsborough and Raleigh.

(3) Schedule one or more special events as in Asheville - speaker and a play; Chapel Hill - a full week of speakers and forums; Raleigh - art exhibit and speakers; and Winston-Salem - speaker and forum.

(4) Arrange for a library display focusing on both documents, as was done in Johnston County, at seven Wake County libraries, and at the main library at NC State University.

(5) Encourage your local and campus newspapers to recognize both documents by publishing them and/or discussions about them, and ask your local broadcast media to give recognition to them, too.

(6) During Human Rights Week, set aside some time to reflect upon one or more provisions of the Bill of Rights, of the UDHR and/or some current human-rights issue(s). Ask others to do the same.

Our Committee can provide a copy of each document, of examples of mayoral proclamations and of items that have appeared in our state's newspapers over the years. For additional information, please contact Slater Newman at [slaterpat@mindspring.com](mailto:slaterpat@mindspring.com). A gender-neutral language version of the UDHR is available at [www.hrcnc.org](http://www.hrcnc.org) (Click on "Human Rights Documents").

### **PLEASE SUPPORT THE ACLU OF NORTH CAROLINA LEGAL FOUNDATION BY MAKING A TAX-DEDUCTIBLE CONTRIBUTION TODAY!**

Friends, we need your help! We see many challenges to American's fundamental freedoms looming in the courts, in Congress, in the halls of the North Carolina General Assembly, and in city councils, school boards, and boards of county commissioners across the state. As you evaluate your budget and think about your charitable contributions for 2009, please put the ACLU-NCLF at the top of your list. The demand for our services has never been greater. Our legal program now processes anywhere from 200-250 requests for assistance per month!

☐ **Yes!** I want to help keep the Flame of Liberty burning brightly in North Carolina. Enclosed is a check for my tax-deductible contribution in the amount of:

☐ \$50   ☐ \$100   ☐ \$250   ☐ \$500   ☐ Other \$ \_\_\_\_\_

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Home Phone: \_\_\_\_\_

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Make check payable to the  
ACLU-NC Legal Foundation  
and mail to:

**ACLU-NCLF  
P.O. Box 28004  
Raleigh, NC 27611-8004**

For more information or to charge your contribution on a credit card, contact Development Associate Perryn Reyelts at 919-834-3466 or [acluncdev@nc.rr.com](mailto:acluncdev@nc.rr.com). MasterCard and Visa accepted, and we offer monthly, quarterly and semiannual giving options to fit your budget.

You can also make a contribution through the ACLU-NCLF's secure website at: <https://www.acluofnorthcarolina.org/?q=donate>





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**Free with new ACLU-NC membership  
at \$35 level or higher.**

Printed on front: ACLU-NC logo.  
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Your dues include memberships for the national ACLU, ACLU of North Carolina, and your local chapter if one exists in your region. You will also receive *Liberty*, the quarterly ACLU-NC newsletter, along with the national newsletter and other mailings. If you have e-mail, your name will be added to our listserve upon your request. You will be able to vote in our statewide Board elections and will be invited to ACLU-NC events like the Frank Porter Graham Awards Ceremony and the annual membership meeting. Simply fill out the form to the right and return it in a stamped envelope. Thank you!

**ACLU-NC logo found on front left  
breast of promotional T-shirt:**



### Enclosed is my check for:

- ☐ \$5 Limited Income Membership
- ☐ \$20 Basic Membership
- ☐ \$30 Joint Membership (Two People)
- ☐ \$35 Contributing Membership\*
- ☐ \$50 Joint Contributing Membership
- ☐ \$75 Supporting Membership
- ☐ \$125 Sustaining Membership
- ☐ \$1,000 Lifetime Membership
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*\*Please give this amount or more if you can*

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lobbying and direct advocacy.**

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Would you like information regarding chapter  
activities in your area, if available?

YES NO

Please return this form to:  
ACLU-NC  
P.O. Box 28004  
Raleigh, NC 27611  
Phone: (919) 834-3466



**We thank you for supporting our work!**

Front row: Michael Gordon, Jennifer Rudinger, David Fry.  
 Second row from bottom: Perryn Reyelts, Kristen Hefner, Sarah Preston.  
 Third row from bottom: Rebecca Headen, Emily-Mary Brown.  
 Top row: Katy Parker, MeShon Watkins, Ian Mance.

**LIBERTY**

*The Quarterly Newsletter of the ACLU of North Carolina*

**4 issues per year:**

January, March, July, and October

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**David Fry**, Duke University School of Law  
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What would fetal personhood  
really mean if enacted into law?  
What are its ramifications for  
reproductive freedom?

Come to a panel discussion  
hosted by the Raleigh chapter of  
the National Organization for  
Women (Raleigh NOW), hear  
opinions from experts, and share  
your views.

Thursday, August 27, 2009  
7:00 p.m.  
at Temple Beth Or  
5315 Creedmoor Road, Raleigh

Panelists include:  
Jennifer Rudinger, ACLU-NC  
Executive Director;  
Robin Davis, NC-NOW;  
Jack Register, Director of  
Advocacy & Legislation at the  
National Association of Social  
Workers—NC Chapter (and  
ACLU-NC Board member).

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