

# LIBERTY



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## Announcing the 43rd Annual Frank Porter Graham Awards Ceremony

*Honoring: Robert Elliot, Ian Palmquist, Kris Parks, Rep. Marcus Brandon, Jackie Azis*

**Keynote Speaker: Steven Shapiro, Legal Director of the ACLU**

*Reserve Seats NOW For This Inspirational Celebration of Civil Liberties!*

For 43 years, the ACLU-NCLF has had the distinguished honor of recognizing local exemplary civil rights leaders at our annual Frank Porter Graham Awards Ceremony.



*Keynote Speaker:  
Steven Shapiro, ACLU Legal Director*

This year, we are thrilled that our keynote speaker will be Steven R. Shapiro, Legal Director of the American Civil Liberties Union, the nation's oldest and largest civil liberties organization. He directs a staff of approximately 90 full-time lawyers who maintain a large and active docket of civil liberties cases around the country. Those cases cover a broad range of issues, including: free

### **Saturday, February 11th**

- 5:30 p.m. jazz reception, light hors d'oeuvres, open bar
- 7:00 p.m. awards presentations, keynote speech by Steven Shapiro
- At the William and Ida Friday Center in Chapel Hill
- **Please RSVP by February 1st**

speech, racial justice, religious freedom, due process, privacy, reproductive and women's rights, immigrants' rights, gay rights, voting rights, prisoners' rights, and fighting the death penalty. Shapiro has been the ACLU's Legal Director since 1993 and served as Associate Legal Director from 1987-1993. He has appeared as counsel or co-counsel on more than 200 ACLU briefs submitted to the United States Supreme Court.

Shapiro is also an adjunct professor of constitutional law at Columbia Law School, and a frequent speaker and writer on civil liberties issues. After graduating from Harvard Law School and spending one year as law clerk to Judge J.

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# FPG Awards Ceremony

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Edward Lumbard of the U.S. Court of Appeals for the Second Circuit, Shapiro joined the New York Civil Liberties Union in 1976. He was a member of the Board of Directors of Human Rights First for twenty years and is now a member of the Policy Committee of Human Rights Watch, as well as the Advisory Committees of the U.S. Program and Asia Program of Human Rights Watch.



*Robert "Hoppy" Elliot, Recipient of the 2012 Frank Porter Graham Award*

### **Frank Porter Graham Award: Robert "Hoppy" Elliot**

Robert "Hoppy" Elliot is a passionate civil libertarian who has dedicated much of his distinguished legal career to advancing civil rights and the ACLU's mission. He is a former President and General Counsel for the ACLU of North Carolina and has served as cooperating attorney on countless ACLU-NC cases involving free speech, ballot access, due process, and equal protection.

Elliot has taken up the cases of convicted death row inmates, victims of ineffective assistance of counsel, and political third parties seeking ballot access, among many others. He recently won wide praise for his work providing legal representation to detainees at Guantánamo Bay prison.



*Ian Palmquist,  
Recipient of the 2012 ACLU of NC Award*

### **ACLU of NC Award: Ian Palmquist**

Ian Palmquist recently completed nearly 12 years of work as a highly effective leader with one of our closest allies, the statewide LGBT advocacy organization Equality North Carolina, including five as Executive Director.

Palmquist is also receiving the ACLU-NC Award for his tireless advocacy on behalf of people with HIV/AIDS and for his commitment to ensuring reproductive freedom by helping to reestablish and rebuild NARAL Pro-Choice North Carolina and contributing his leadership skills to the successful push for comprehensive sexuality education at both the county and state levels.



*Kristin Parks,  
Recipient of the 2012 Paul Green Award*

### **Paul Green Award: Kristin Parks**

Kris Parks is an attorney who has worked tirelessly to combat the death penalty in North Carolina. Parks has represented death row clients in their post-conviction

appeals, as well as worked with Disability Rights North Carolina through numerous sessions of the state legislature in an ongoing attempt to pass a bill that would prohibit the execution of people with severe mental illness. As part of that campaign, she has spent significant time during the last several years traveling across the state educating North Carolinians about the issues of mental illness and the death penalty.



*Rep. Marcus Brandon, Recipient of the 2012 Sharon Thompson Award*

### **Sharon Thompson Award: Marcus Brandon**

The Sharon Thompson Award will be presented to Rep. Marcus Brandon (D-Greensboro), who, as the only openly gay legislator in the North Carolina General Assembly, has been a stalwart advocate for LGBT rights throughout the state.

During the debate in the NC House of Representatives over North Carolina's proposed anti-LGBT constitutional amendment, Brandon delivered an impassioned plea to the state's lawmakers to vote against this mean-spirited, discriminatory measure, saying, "This is all about 'someone is different,' therefore you will be treated different."

*(Continued on page 3)*



Jackie Azis,  
Recipient of the 2012  
Norman Smith Award

**Norman Smith Award: Jackie Azis**  
Finally, the Board of Directors of the ACLU-NC will honor Jackie Azis, one of our most dedicated volunteers, with the Norman Smith Award. Azis volunteered as a full-time law clerk for the ACLU-NC in Summer 2010 and worked for the ACLU's Capital Punishment Project in Summer 2011. She has also

served as an anonymous plaintiff in an ACLU-NCLF lawsuit; organized UNC law students to lobby state lawmakers on LGBT, racial justice, death penalty, and voting rights issues; organized a protest at UNC Law against the state's anti-LGBT ballot measure; and has helped promote the ACLU-NC and our mission in numerous other ways.

### Follow Us Online!

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### 43rd Annual Frank Porter Graham Awards Ceremony

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- I am interested in purchasing an ad in the program. Payment is enclosed, and I will submit the ad by e-mail no later than Friday, January 27, 2012.

Please make your check payable to ACLU-NCLF or fill out credit card information above, and mail payment along with this RSVP card to:  
ACLU-NCLF, P.O. Box 28004, Raleigh, NC 27611-8004.  
Reservations \$100 per person. Call 919-834-3466 for more info or to charge by phone.

*The ACLU-NCLF is offering the opportunity to purchase an ad in the program for the Frank Porter Graham Awards Ceremony. Advertise your business, send a message of congratulations to this year's honorees, or celebrate the Bill of Rights!*

**Full page (5" x 8") — \$100**

**1/2 page (5" x 4") — \$50**

**1/4 page (2.5" x 4", or business card) — \$35**

*Ads should be e-mailed to [mmeno@acluofnc.org](mailto:mmeno@acluofnc.org).  
PDF, JPEG or Word formats preferred.*

*Ads should be submitted no later than January 27, 2012.  
Please call Mike Meno, Communications Manager, at 919-834-3466 for more information.*

*(All ads may be subject to editing.)*



**Special thanks to our wonderful friends at Replacements, Ltd. for once again sponsoring the Frank Porter Graham Awards Ceremony!**

# Federal Court Blocks Production of 'Choose Life' License Plate

*Judge Temporarily Halts Anti-Abortion Plates During Ongoing Legal Challenge;  
ACLU-NCLF Says State Violates First Amendment By Not Offering Pro-Choice Alternative*

United States District Court Judge James C. Fox granted a preliminary injunction on December 1, 2011, that prevents North Carolina from producing a proposed "Choose Life" license plate during an ongoing legal challenge from the ACLU of North Carolina Legal Foundation. The ACLU-NCLF filed a lawsuit in September in the U.S. District Court for the Eastern District of North Carolina on behalf of North Carolinians seeking a specialty license plate that supports reproductive freedom.

"We are very pleased that the court sided with fairness," said Katy Parker, Legal Director for the ACLU-NCLF, on the day of the decision. "This case is ultimately about free speech and equal treat-



The North Carolina General Assembly authorized this "Choose Life" license plate but rejected all proposals for a license plate supporting reproductive freedom.

ment for all North Carolinians, regardless of their point of view on abortion. The State should not be allowed to use its authority to promote one side of a debate while denying the same opportunity to people who wish to express the other point of view in favor of choice."

During the 2011 legislative session, the North Carolina General Assembly passed House Bill 289, which authorized the issuance of a "Choose Life" license plate. However, the legislature repeatedly refused to authorize a plate that supported the countervailing position in favor of reproductive freedom.

Six amendments were proposed in the legislature to authorize an additional new plate that stated either, "Trust Women. Respect Choice," or simply "Respect Choice." The legislature rejected all six amendments. The lawsuit alleges that the State is engaging in unconstitutional viewpoint discrimination in violation of the First Amendment.

# ACLU-NC Applauds Governor for Vetoing Racial Justice Act Repeal

The American Civil Liberties Union of North Carolina applauded Gov. Bev Perdue on December 14th for her veto of Senate Bill 9, a bill that would repeal North Carolina's landmark Racial Justice Act, which seeks to address racial bias in our capital punishment system.

The law allows death-row inmates the opportunity to appeal their capital punishment and instead receive life in prison if they can prove that race played a factor in their sentence. A recent study by Michigan State University showed substantial patterns of racial bias in North Carolina's

capital punishment system. Over the last decade, for example, qualified African-American jurors were struck at twice the rate of white jurors, according to the study.

"We applaud Governor Perdue for vetoing a measure that ignores the role that race plays in death penalty cases in North Carolina," said Sarah Preston, ACLU-NC Policy Director. "The Racial Justice Act is a crucial safeguard against well-documented racial discrimination in our state's capital punishment system. We strongly urge members of the General Assembly to save this landmark law by sustaining the governor's veto of SB 9."



North Carolina Governor Bev Perdue

North Carolina's District Attorneys have opposed the Racial Justice Act because - by their own admission - it would allow evidence to be presented that could reduce many death sentences to life without parole.

# Investigation Finds Racial Bias In Winston-Salem Checkpoints

*Approx. 85% of Police Checkpoints Placed in Predominantly Minority Neighborhoods*

After receiving numerous complaints from residents, the ACLU of North Carolina Legal Foundation launched an investigation in late 2010 into the execution of stationary driver's license checkpoints by the Winston-Salem Police Department.

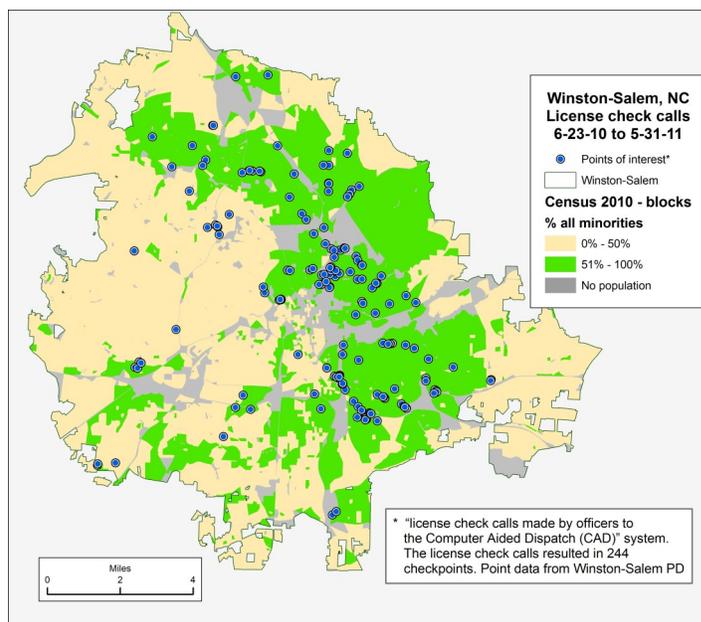
Led by ACLU-NCLF Racial Justice Attorney Raul Pinto, our investigation soon uncovered that the Winston-Salem Police Department was disproportionately placing checkpoints, in which officers stop a vehicle and ask the driver to show his/her license, in predominantly minority neighborhoods. A statistical analysis of records provided by the Winston-Salem Police Department found that approximately 85 percent of the 244 checkpoints placed throughout the city during an 11-month period were placed in minority neighborhoods. According to the United States Supreme Court, police checkpoints are constitutional only if used for certain approved purposes, such as checking for intoxicated drivers, and only if they are conducted in a reasonable manner. Checkpoints cannot be used for general crime control, the Court has found.

In October 2011, ACLU-NCLF attorneys asked the Winston-Salem Police Department to adopt four policy changes to ensure that the checkpoints do not violate the Fourth Amendment's protections against unreasonable search and seizure and to be sure they are not targeting drivers based on race or ethnicity. The four recommendations were to (1) end the disproportionality of checkpoints in minority communities, (2) adopt a form to document what happens at each checkpoint, (3) properly report information about enforcement actions at checkpoints to the State Bureau of Investigation, and (4) provide officers with additional training about checkpoint protocol, the new reporting forms, and racial bias. To date, the Winston-Salem Police Department has not adopted any of our recommendations.

In order to raise public awareness about checkpoint practices, the ACLU-NCLF organized a town hall meeting on December 10, 2011, featuring Winston-Salem residents and business owners who have been adversely affected by checkpoints in their neighborhoods. The event was co-hosted by the Winston-Salem/Forsyth County branch of the National Association for the Advancement of Colored People (NAACP) and the Forsyth County MoveOn Council. Several members of



Pictured above, from left: ACLU-NCLF Racial Justice Attorney Raul Pinto moderates a panel about police checkpoints in Winston-Salem on December 10th with resident Gabriela Melo, former Winston-Salem police officer Stephen Hairston, and business owner Brenda Wall.



The ACLU-NCLF compared census data with statistics provided by the Winston-Salem Police Department to create this map demonstrating how the department is disproportionately placing checkpoints in parts of the city with predominantly minority populations.

the Winston-Salem City Council and Police Department attended, as well.

Many minority residents said at the meeting that they felt unjustly profiled by the checkpoints. Gabriela Melo, a Winston-Salem resident, said police have stopped her vehicle on the way to work but often wave white drivers through the checkpoints. "I felt discriminated (against)," said Melo. "Just because I look Mexican, you asked me for my license. ... That's not right."

For more information about our investigation or to file a complaint about checkpoints in Winston-Salem, please call Raul Pinto at 919-834-3466.

# ACLU-NCLF Provides Legal Representation for Disabled Woman Arrested at Occupy Raleigh

*Margaret Schucker's Back Problems Required Her to Sit in a Chair; Police Arrested Her When She Refused to Move Her Chair from the Protest Area, Violating First Amendment Rights*

The American Civil Liberties Union of North Carolina Legal Foundation announced in December that we are providing legal representation to Margaret Schucker, a 57-year-old disabled Raleigh resident who was arrested October 27 at Occupy Raleigh, the local offshoot of the national Occupy Wall Street movement. Schucker was arrested for refusing to move her chair, which she required due to back problems, away from the demonstration occurring on the sidewalk. The ACLU-NCLF is arguing that Schucker's arrest violated her First Amendment rights.

Schucker was sitting in a chair while protesting on the public sidewalk along Morgan Street outside the North Carolina State Capitol, where protestors were forced to move after being expelled from the grounds of the old Capitol building.

Police ordered Schucker to move her chair from the sidewalk and relocate away from the street, to a bench on the old Capitol grounds, where protestors were not allowed to demonstrate. Schucker, who was wearing a blue and white state handicap placard on her chest, told the police that she had back problems and needed the chair in order to be able to participate in the demonstration. She was not blocking traffic on the sidewalk and had made sure to leave at least three feet of space for passersby, as required by the Americans with Disabilities Act.

When she refused to move her chair, Schucker was arrested and



Margaret Schucker sits in her chair on the sidewalk along Morgan Street in downtown Raleigh prior to her October 27 arrest. Image courtesy of Occupy Raleigh.

charged with second-degree trespassing.

"I wanted to exercise my free speech rights on the same terms as my fellow demonstrators," Schucker said. "The only difference was that, because of my chronic lower back pain, I couldn't stand while demonstrating and had to use a chair. As a disabled person, I have always been very aware that the sidewalk must be kept clear so that everyone may pass. If I had moved to the bench on the Capitol grounds, as the police suggested, I would have been prevented from communicating with passersby with whom we were trying to engage."

Schucker is being represented by ACLU-NCLF Cooperating Attorney Scott Holmes, of the Durham law firm Brock, Payne & Meece, as

well as by Katy Parker, Legal Director for the ACLU-NCLF.

"It's disgraceful that Ms. Schucker was arrested simply because she was a disabled person trying to exercise her constitutional right to free speech," said Parker. "By ordering her to move away from her fellow demonstrators and their intended targets to an area that demonstrators had previously been banned from using, the police essentially prohibited Margaret from participating in the demonstration, as is her right. She should not have been discriminated against for requiring a chair, especially since she was in no way blocking the sidewalk."

## Court: Wrongly Deported North Carolina Citizen's Lawsuit Should Go Forward

United States Magistrate Judge William A. Webb recommended on November 14, 2011, that our lawsuit should go forward, challenging the wrongful deportation of an American citizen by the U.S. government. The ruling recommended denying a motion by the U.S. government to dismiss a lawsuit filed on behalf of Mark Lyttle, a U.S. citizen of Puerto Rican descent with mental disabilities who was wrongfully deported to Mexico in 2008 and forced to endure more than four months of living on the streets and in the shelters and prisons of Mexico, Honduras, Nicaragua and Guatemala. The lawsuit was filed by the national ACLU and the ACLU-NCLF in the United States District Court for the Eastern District of North Carolina in October 2010.

"What our government did to Mark Lyttle, one of its own citizens, is unconscionable, and we are pleased that the Court today recommended that the case go forward," said Katy Parker, ACLU-NCLF Legal Director. "Even though Mark was born and raised in Rowan County, North Carolina, immigration officials made scarcely any effort to confirm his citizenship. Instead, they unjustly shipped this man off to a country where he didn't even speak the language, inflicting severe emotional harm."

Lyttle's entanglement with immigration authorities began when he was about to be released from a North Carolina jail where he was serving a short sentence for inappropriately touching a worker's backside in a halfway house that serves individuals with mental disorders. Despite having ample evidence that Lyttle was a U.S. citizen – including his Social Security number, the names of his parents, his sworn



Mark Lyttle

statements that he was born in the United States, and criminal record checks – officials from the North Carolina Department of Correction referred him to Immigration and Customs Enforcement (ICE) as an undocumented immigrant whose country of birth was Mexico. Lyttle had never been to Mexico, shared no Mexican heritage, spoke no Spanish, and did not claim to be from Mexico.

Lyttle was left alone and penniless in Mexico and unable to communicate in Spanish. Mexican authorities sent him to Honduras, where he was imprisoned and faced with guards who threatened to shoot him. From Honduras, he ended up in Nicaragua. Eventually, he made his way to Guatemala and to the U.S. Embassy in Guatemala City. Within a day, embassy officials contacted one of Lyttle's three brothers at the military base where he was serving, leading to Lyttle being issued a U.S. passport. His brother wired him money and Lyttle was soon on a flight to Atlanta. Upon Lyttle's arrival, border officials, seeing his history with ICE, held and questioned him for several hours before finally letting him go.

During this four-month ordeal, Lyttle was unable to take his medications to treat his mental illnesses and was subject to cycles of manic activity and depression. Judge Webb

## Attention, Members!

Nominations for the ACLU-NC's Board of Directors are just weeks away, and our Nominating Committee is actively recruiting hard-working, dedicated members to serve on our Board. If you are willing to take on a leadership role in the ACLU-NC and would like to be considered for nomination to the Board, contact ACLU-NC Executive Director Jennifer Rudinger at [jrudinger@acluofnc.org](mailto:jrudinger@acluofnc.org) to find out the duties and expectations of Board membership.

We are especially interested in hearing from members in rural NC communities, members who have fundraising experience, and members who are racial minorities, LGBT, or people with disabilities.

In addition, the ACLU-NC bylaws allow members in good standing to seek election by petition of 25 or more members rather than by nomination. The deadline for submission of petitions to run for the Board is Friday, February 17, 2012, at 5:00 p.m. Petitions may be delivered in person in our office or by mail, postmarked on or before February 17, 2012. For more information on the petition process, contact Jennifer Rudinger.

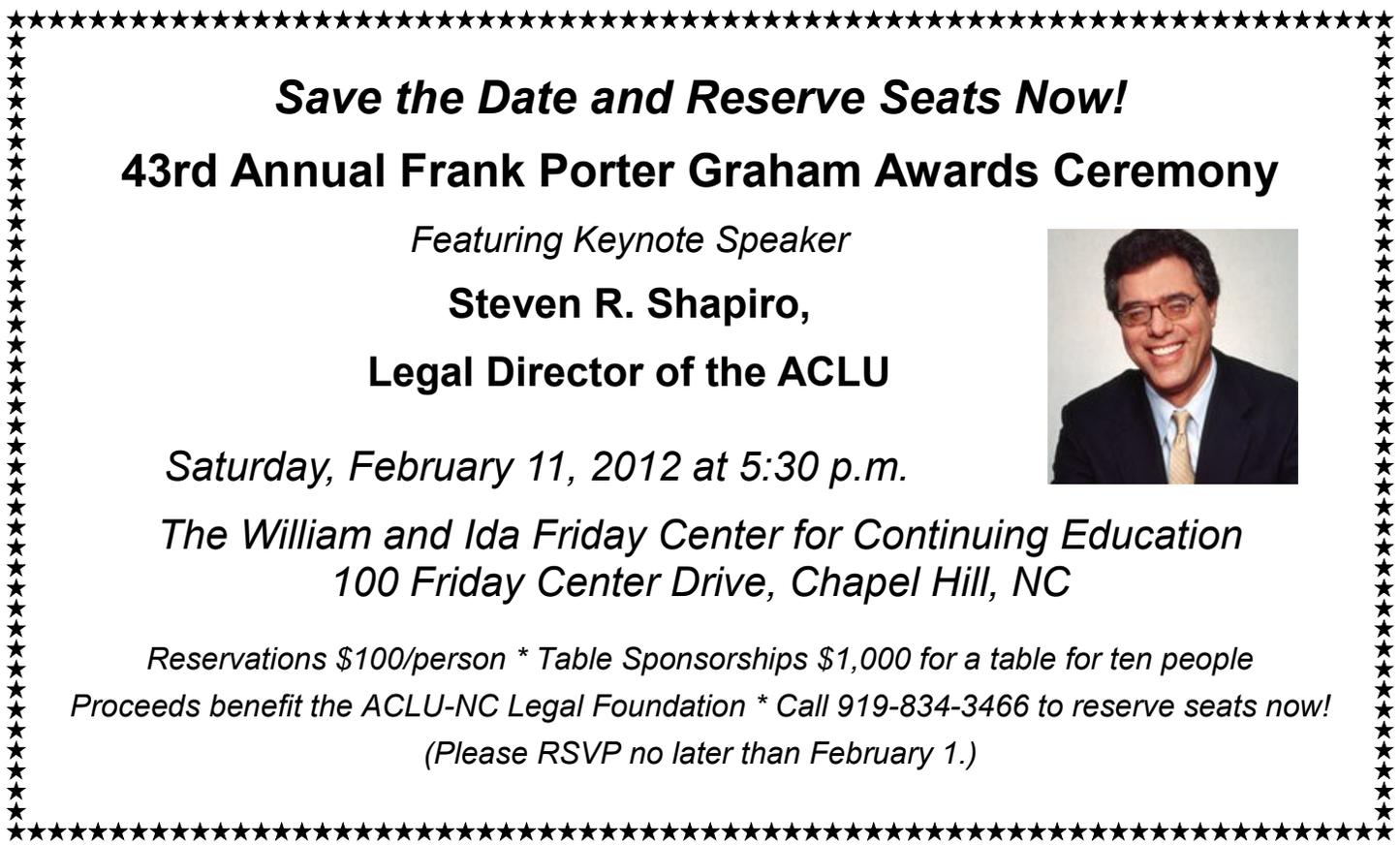
wrote that the actions taken by the U.S. government, if proven true, were "extreme and outrageous." He also agreed that "improperly detaining and 'unjustly exiling [an American citizen] ought to be beyond this society's bounds.' ... The United States loses sight of the fact that [Lyttle] is not an alien challenging a decision of removal. Rather, he is a United States citizen alleging that immigration officials deliberately violated his rights in the execution of their duties."

The U.S. District Court judge will soon decide whether to accept the magistrate's recommendation.



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***Save the Date and Reserve Seats Now!***

**43rd Annual Frank Porter Graham Awards Ceremony**

*Featuring Keynote Speaker*

**Steven R. Shapiro,  
Legal Director of the ACLU**



*Saturday, February 11, 2012 at 5:30 p.m.*

*The William and Ida Friday Center for Continuing Education  
100 Friday Center Drive, Chapel Hill, NC*

*Reservations \$100/person \* Table Sponsorships \$1,000 for a table for ten people  
Proceeds benefit the ACLU-NC Legal Foundation \* Call 919-834-3466 to reserve seats now!  
(Please RSVP no later than February 1.)*