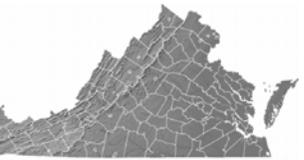


Virginia Liberties



Newsletter of the American Civil Liberties Union of Virginia

Fall 2007

Virginia to Launch Voting Rights Restoration Project

The ACLU of Virginia is launching a major initiative to reform the state's felon disenfranchisement law. The ambitious project will include a large scale public education program, a counseling program for individuals seeking to have their voting rights restored, the building of a statewide coalition of civic, religious, and advocacy organizations, and a lobbying component.

"Restoration of voting rights following a felony conviction may be more difficult in Virginia than in any other state in the nation," said ACLU of Virginia Executive Director Kent Willis. "It is estimated that more than 250,000 formerly

incarcerated individuals in Virginia are unable to vote, despite having completely repaid their debt to society."

It is no surprise that African-Americans, who are disproportionately represented among felons, are most affected by felon disenfranchisement laws. Nearly 160,000 -- or one in every six -- African-Americans living in Virginia cannot vote as a result of a felony conviction. This is seven times the national average.

Voter disenfranchisement is one of the least understood vestiges of the Jim Crow era, put in place— along with poll taxes

and literacy tests—to keep minorities out of the polling booth.

Virginia is one of only two states that permanently disenfranchise all felons. Although the process for restoration of voting rights has been streamlined in recent years, only the Governor may restore the right to vote.

Join the Fight!

If you are interested in learning more about this project or having your organization join the coalition, please contact Kent Willis at 804-644-8022 or acluva@acluva.org.

Election Day Conclusion: Poll Workers Not Properly Trained

This year voters complained to our Election Day Hotline like never before. The number one gripe, by far, was that they were misinformed about the need for an ID to vote. Between posters implying that an ID is required and poll workers demanding IDs, voters caught at the polls without official identification were at least inconvenienced and, in some cases, denied the right to vote.

Virginia law does not require voters to have an ID, although voters who do not show ID must sign an "Affirmation of Identity" form to be given a ballot. The problem is that some signs posted at the polls hide the ID alternative in the fine print, and many poll workers misinform voters, demanding an ID or refusing to allow them to vote.

Because the extent of the problem is not clear, immediately after Election Day, the ACLU of Virginia sent a Freedom of Information Act request to each of the 134 registrars in Virginia asking for copies of posters used at the polls and the manuals used to train poll workers. The information from the FOIA request, as well as the anecdotal information collected on Election Day, will be used to advocate for more rigorous training of poll workers prior to the presidential election in 2008.

In addition to the Election Day Hotline, the Virginia ACLU and NAACP distribute "Empowerment Cards" to voters. This year nearly 15,000 cards were distributed prior to and on Election Day, including 3,000 at the NAACP state conference.

Rage Over Immigrants' Rights: What Do You Think?

The fight over immigrants continues to rage in Virginia, and there are no signs of it letting up. This summer Prince William County passed a resolution requiring background checks on arrestees suspected of being here illegally and cutting off some public services to illegal immigrants. Loudon County adopted a similar resolution, and Herndon has threatened to impose sanctions on businesses that allow day laborers to gather on their properties. This fall, nearly every candidate for the House of Delegates and the Senate promised to crack down on "illegals." Recently, a state commission issued two dozen recommendations, ranging from expanding prisons for illegal immigrants to denying them bail.

Missing from this heated debate is accurate information. Prince William officials say their resolution was intended to fight the high crime rate caused by illegal immigrants. But just before they voted, their police chief testified that illegal immigrants are less likely to cause crime than others, and that the anti-Latino intent of the resolution would undermine community policing in Hispanic neighborhoods. As a result the resolution will increase, not decrease, crime.

In Prince William, as elsewhere, the issue may not be crime, just as it is not cost to taxpayers or other blurry issues. Instead, we may be balking at the influx of Latinos, just as we once balked at the Irish and Italians when they sought refuge here.

The ACLU of Virginia is actively engaged in immigrants' rights issues in Virginia. We do not have an immigration policy per se, but we are concerned that local and state actions are undermining the due process rights of all immigrants and that new policies will be implemented in ways that discriminate against Latinos, not because they are illegal, but because of national origin.

I am interested in hearing what ACLU members in Virginia have to say about this issue. Let me know what you think by writing to me at kwillis@acluva.org.

Thanks. I hope to hear from you.

Kent Willis
Executive Director

Virginia Reps Attend ACLU Biennial Conference

Nine representatives of the Virginia affiliate attended the 2007 Biennial Conference in Seattle this summer (see photo). The Biennial brings together ACLU supporters from around the nation—about 500 of them—to listen to presentations and participate in workshops on the most compelling civil liberties challenges confronting the organization. But its most important function is as a policy-making body. About half of the conference is devoted to voting plenaries at which new ACLU policies are proposed, debated, debated a second time, and often as not, debated yet again. The policies that receive a majority vote are then sent to the national board of directors for consideration.



Standing, left to right: Gena Chieco, George Smith, Stew Dunn, Paul Fleisher, David Drachslor.
Seated: Liz Gilchrist, Barbara Ziony, Frank Feibelman, Kent Willis.

John Levy Named Chair Emeritus of Legal Panel

At its November meeting, the ACLU of Virginia Board of Directors honored stalwart volunteer John Levy for serving as the Chair of the Legal Panel from 1991 to 2007. Levy first joined the ACLU as a law student in 1966, became a member of the ACLU of Virginia Board in 1969, and among numerous other

ACLU-related duties, served as Board President from 1988-1991. The Legal Panel evaluates and presents to the Board lawsuits to be filed by the ACLU of Virginia. During John's tenure the ACLU of Virginia filed more than 200 cases in which fundamental constitutional rights were at stake. Thanks, John!

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Legislative Brunch Set for January 27

The Northern Virginia and George Mason University School of Law Chapters invite you to join ACLU of Virginia Legislative Counsel Hope Amezcua for the annual winter issues brunch on Sunday, January 27, 2008, 12:30 p.m. to 2:30 p.m., at GMU Law School. The focus of the discussion will be on bills in the Virginia General Assembly that affect civil liberties. Get details toward the end of year by checking our website (www.acluva.org) or contacting the Northern Virginia Chapter at acluva@acluva.org or (703) 360-1096.

Want to Run for the Board of Directors?

Each year, the ACLU of Virginia elects approximately one-third of its Board of Directors to three-year terms. If you are a member of the ACLU, you are invited to seek nomination to the board by submitting to the Nominating Committee your name and a statement of interest. You may also become a candidate for the Board by submitting a petition for candidacy signed by five ACLU members. The deadline for both is March 17, 2008.

The 2008 membership meeting is scheduled for May 17, 2008. Board members are elected by a vote of the membership through mail-in ballots and ballots cast at the annual meeting. For more information on board membership, please contact Kent Willis at acluva@acluva.org.

Will You Host an ACLU House Party by Showing Ghosts of Abu Ghraib?

The ACLU of Virginia is looking for supporters to open their homes to friends, neighbors, co-workers, and/or fellow ACLU members in the same community. Volunteer to host a house party to screen the film, *Ghosts of Abu Ghraib*, and we'll help you set it up. If you are interested in hosting a house party, please contact Elizabeth Wong in Richmond at (804) 644-8022 or acluva@acluva.org.

Immigrants' Rights Forum Held

The Northern Virginia Chapter held a public forum on immigrants' rights in Fairfax County on November 10. Max A. Sevilla, legislative consultant on immigrants rights for the National ACLU addressed the crowd of nearly 100 about the trends in states and localities across the country in dealing with the influx of immigrants, particularly those who are undocumented. With the current debate over controversial policies being implemented in Prince William County and other locales throughout Virginia, many attendees were interested to hear what the Virginia affiliate was doing to protect the due process rights of undocumented immigrants and to prevent profiling of Latinos.

Interested in Starting A Chapter?

If you would like to start a chapter of the ACLU in your area or on your campus, please contact Elizabeth Wong at (804) 644-8022 or acluva@acluva.org. If there is enough interest, we'll let you know so you can meet your ACLU neighbors and organize a chapter.

Campus Chapters at UVA and GMU Engage Members

ACLU student chapters have been busy this fall. The ACLU at the University of Virginia hosted "An Evening Without..." on October 4. The event raised awareness about "ideological exclusion," under which authors are barred from the U.S. because of their viewpoints. The audience heard students perform the works of excluded authors, including Tariq Ramadan, Gabriel Garcia Marquez, and Dario Fo.

The UVA chapter also teamed up this semester with Amnesty International to stage a "Close Guantanamo" rally, in which they secured 600 signatures on a petition. The demonstration featured several students who wore the signature orange jumpsuits.



Meanwhile, on the UVA Law School campus, Jameel Jaffer, Director of the ACLU's National Security Project, joined UVA Law Professor Emeritus Robert O'Neil for an event titled, "Who's Afraid of Foreign Intellectuals?" This discussion also centered around ideological exclusion. More specifically, the case of Tariq Ramadan, a leading Muslim scholar whose visa was revoked days before he was to move to the U.S. as a tenured professor at the University of Notre Dame. The government cited the ideological exclusion provision of the Patriot Act.

Following the program, Jaffer signed copies of his recently released book, *Administration of Torture: A Documentary Record from Abu Ghraib and Beyond*, which was co-authored by fellow ACLU staff attorney Amrit Singh.

On November 13, the chapter at George Mason University School of Law held an informal brown-bag discussion with Michael Foreman, Deputy Director of Legal Programs for the Lawyer's Committee for Civil Rights Under Law. Mr. Foreman addressed the group of 20 students with various hypothetical situations related to diversity and affirmative action, particularly as it applies in the workplace.

Day of Action Draws Strong ACLU of Virginia Delegation

On June 26, a group of over 20 Richmond-area ACLU supporters left the city at dawn for a bus ride to D.C., where they joined 4,000 others from across the country to urge Congress to restore habeas corpus rights and fix the Military Commissions Act of 2006. Organized by the ACLU, Amnesty International, the Leadership Conference on Civil Rights, and the National Religious Campaign Against Torture, the Day of Action began with lobby day trainings and was followed by a rally at Upper Senate Park and visits with members of Congress. The delegates delivered to members of Congress a petition to restore the rule of law with 250,000 signatures.



Romero Reads, Signs Book

National ACLU Executive Director Anthony Romero signs copies of his new book, *In Defense of Our America: The Fight for Civil Liberties in the Age of Terror*, at the Lyceum in Alexandria on June 4. The gathering, which included a lively Q & A with members, was sponsored by the ACLU of Virginia.



Richmond-area ACLU Delegation Arrives at D.C.'s Union Station for Day of Action

ACLU of Virginia in Action

Justice Department Joins ACLU in Legal Action Challenging Racially Biased Hair Policy

The U.S. Department of Justice filed a lawsuit in September against Barry Davis, owner of Kokoamos Island Bar, Grill and Yacht Club, alleging that the Virginia Beach nightclub discriminates against African-American clients by banning patrons who wear braids, twists, cornrows, or dreadlocks.

The lawsuit came nine months after the ACLU filed its own federal lawsuit against the club on behalf of Kim Hines and Myron Evans, both African-American, who were on separate occasions denied entry to Kokoamos because they wore their hair in dreadlocks. Kokoamos also has a dress code banning baggy pants and “gangster (sic) wear.”

The ACLU maintains that the effect of the hair policy is to discriminate against African-Americans, who are more likely than Caucasians to don the banned hairstyles. There is also strong evidence the policy is applied in a racially discriminatory manner. Local television station WAVY-TV conducted an on-camera test in which two similarly dressed young men, one African-American and the other Caucasian, attempted to enter the bar. The Caucasian was allowed in, but not the African-American.

ACLU Says Homeless Have Right to Panhandle

The ACLU of Virginia has told members of Richmond City Council that it must reject a proposal to charge \$25 and require a permit for sidewalk panhandlers who seek donations from vehicle occupants. The ACLU believes that requiring a \$25 permit is an unnecessary restriction on the free speech rights of the homeless, especially since no evidence has been presented indicating that curbside panhandling is a threat to public safety. The ACLU is prepared to sue the city on behalf of panhandlers affected by the ordinance, should it pass.

Censored Art Teacher Sues School Board

The ACLU has filed suit in federal court on behalf of Stephen Murmer, a Chesterfield County high school art teacher who was fired for the art he produces and sells on his own time, and at his own expense. Murmer, who goes by Stan Murmur when he paints, uses his buttocks and other body parts to transfer paint to canvasses. He lost his job last December after a video of him demonstrating his technique surfaced on YouTube.com. Chesterfield officials, however, apparently knew about his painting technique for some time before students found the video. The ACLU believes the county does not have the right to fire a teacher for engaging in legitimate creative activities on his own time.

Supreme Court Refuses to Hear “Rendition” Case

In a disappointing yet not unsurprising development, the U.S. Supreme Court on October 11, decided not to hear the case of Khaled El-Masri, the innocent German citizen who was a victim of the CIA’s “extraordinary rendition” program. By refusing to review the case, the Supreme Court let stand the lower courts’ dismissal of the case based on the government’s claim that allowing the case to go forward would reveal state secrets and thereby undermine national security.

One irony of the courts’ decisions is that the case has received international press coverage and is the subject of investigation by other countries. It — and the facts surrounding it — is hardly a state secret at this juncture.

The case was brought in U.S. District Court in Virginia by the National ACLU and the ACLU of Virginia. Both the district court in Alexandria and the Fourth Circuit Court of Appeals in Richmond ruled against the ACLU and El-Masri.

“The timidity of the courts in this case is deeply disturbing,” said ACLU of Virginia Legal Director Rebecca K. Glenberg, one of the lawyers who represented El-Masri. “When the judicial branch accepts the word of the executive branch without question or investigation, our system of checks and balances ceases to exist.”

El-Masri’s case has received international attention. In 2004, while on holiday in Macedonia, El-Masri was forcibly abducted and detained incommunicado. He was beaten, drugged, and transported to a secret CIA prison in Afghanistan, where he was subjected to inhumane conditions and coercive interrogation. After several months of confinement in squalid conditions, he was abandoned on a hillside in Albania with no explanation and having never been charged with a crime.

ACLU Urges Governor to Stop Lethal Injections

Just hours before Christopher Scott Emmett was to be subjected to the death penalty by lethal injection, the U.S. Supreme Court stayed his execution until its justices decide next year whether or not the three-drug lethal injection process in Kentucky violates the Eight Amendment’s ban on cruel and unusual punishment. The Virginia Department of Corrections uses the same protocol as Kentucky. The ACLU had asked Governor Tim Kaine not only to stay Emmett’s execution, but also to declare a moratorium on the death penalty until the Supreme Court issued its opinion.

On *Loving v. Virginia*: Racial Equality, Gay Marriage and the Virginia ACLU

By Kent Willis, Executive Director

Forty years ago this year the U.S. Supreme Court struck down the Virginia law that criminalized the marriage of Richard and Mildred Loving.

Richard was white and Mildred was black. They had violated Virginia's anti-miscegenation statute and were banned not just from rural Caroline County, where they had met and fallen in love, but also the entire state of Virginia.

The Caroline County judge who in 1959 found them guilty of violating the Virginia Racial Integrity Act, wrote, "Almighty God created the races white, black, yellow, malay and red, and he placed them on separate continents. The fact that he separated the races shows that he did not intend for the races to mix."

For those of us who grew up in the segregated South in the 1950s and 1960s, this kind of bigoted reasoning from a rural county judge was not terribly shocking. But there is no excuse for the disgraceful ruling from the Virginia Supreme Court that followed. In 1965, Virginia's finest legal minds upheld the ban on interracial marriage, relying on an earlier case in which it said the state was obligated "to preserve the racial integrity of its citizens" and to prevent "the corruption of blood," "a mongrel breed of citizens," and "the obliteration of racial pride."

Fortunately, the U.S. Supreme Court - only one hundred miles up the road from Richmond but worlds apart from the prejudice and provincialism of the Virginia judicial system -- saw it differently. The high court had given us *Brown v. Board of Education* a decade earlier, and had watched Congress pass the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Loving v. Virginia was in the right place at the right time.

But it might never have happened, at least not here anyway, if U.S. Attorney General Bobby Kennedy had not referred Mildred Loving to the ACLU after she asked for help. The ACLU contacted Bernie Cohen, a young Alexandria attorney, who agreed to take the case,

despite being concerned that he was not prepared for the monumental task before him. Cohen was later joined by another Alexandria attorney, Phil Hirschkop, who was only two years out of law school.

Together the two young Virginia attorneys, working as volunteers for the ACLU and representing the Lovings without charge, took the case all the way to the conclusion we now commemorate.

Cohen later became a stalwart member of the Virginia General Assembly, serving with distinction in the House of Delegates for more than 15 years. There he consistently supported state civil rights legislation and even introduced a bill to guarantee equal rights for gays and lesbians.

Hirschkop became the heart and soul of the ACLU of Virginia, helping to guide us through our formative years in the late 1960s and representing us on the national ACLU board of directors for most of the 1970s. In typical ACLU fashion, he ran the ideological gamut in order to consistently defend constitutional principles -- on one hand representing American Nazi George Lincoln Rockwell's right to be buried in Arlington alongside other war veterans, while on the other forcing the all-male University of Virginia to admit women.

The *Loving* case and the ACLU of Virginia are about the same age. When the case was decided in 1967 there were about 50,000 interracial marriages; there are now probably 400,000. Over the same time span, the membership of the ACLU of Virginia grew from about 1,000 to more than 10,000.

It might seem to be a good time to rest, at least momentarily, on our laurels-- to celebrate how far we have come since 1967. But it is hard to be joyous about the right to marry in a state that denies gay and lesbian couples that entitlement.

The harsh bigotry found in the words of Virginia's judges in the *Loving* case seem like a fading echo from a distant past -- something we study for the lessons we can learn from them, but which have no place in these more enlightened times. But

the closer I look at those old words, the more I realize how similar in spirit they are to the words used today by Virginia's legislators, who have not only banned gay marriage, but also prohibited gays and lesbians from entering into other legal arrangements of their choice.

It was a rising cultural tide that thrust the civil rights movement upon us and carried the *Loving* case to its inevitable conclusion. And one day soon, as more and more Americans see the pettiness of their prejudices against gays and lesbians, there will be a rising tide that carries the fight for gay and lesbian rights to its inevitable conclusion.

Season Two of Freedom Files TV Features Gay Rights

With the battle for gay marriage and recognition of other legal arrangements between gays and lesbians being fought across America, two episodes of the new season of the ACLU's television show, *The Freedom Files*, feature same-sex couples struggling to be recognized as families.

"Freedom to Marry: Same-Sex Couples" tells the story of three couples who are part of a lawsuit in Maryland seeking to overturn state law that bars lesbians and gay men from marriage.

"Freedom to Parent: Lesbian & Gay Families" illustrates how bans on adoptions and fostering by same-sex couples ends up hurting thousands of children who are desperate for good homes.

Please visit www.aclu.tv for more information. Contact Elizabeth Wong at (804) 644-8022 or acluva@acluva.org, if you would like a copy of an episode of the Freedom Files.

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If you'd like to learn more about the ACLU's planned giving options and becoming a member of the DeSilver Society, call the Planned Giving office in NY toll free at 877-867-1025, or email Legacy@aclu.org. Or you can contact the ACLU staff in Richmond at 804-644-8022.

The 2008 General Assembly Is Just Around the Corner!

Sign up to be a Grassroots Lobbyist!

The Virginia General Assembly convenes on January 8, and we need you help. Each year we rely on our grassroots lobbyists to call, email, or send letters to members of the Virginia House and Senate during the legislative session. To sign up or to learn more about the program, visit www.acluva.org.

Preview of the Session

Before the start of the legislative session, the ACLU produces a preview of the General Assembly detailing which upcoming bills will most impact civil liberties this year. If you would like a copy, contact Hope Amezcuita at (804) 644-8022 or acluva@acluva.org.

Pro-Choice Lobby Day

Join us in Richmond on Thursday, January 31 to urge the General Assembly to protect our reproductive rights. If you are interested in participating in Pro-Choice Lobby Day, contact Hope Amezcuita at (804) 644-8022 or acluva@acluva.org.