



ACLU

AMERICAN CIVIL LIBERTIES UNION
of SOUTH CAROLINA

American Civil Liberties Union of South Carolina Foundation

Because Freedom Can't Protect Itself

NEWSLETTER

June 2013

Tanks, Drones and a Town Near You



American neighborhoods are increasingly being policed by cops armed with the weapons and tactics of war. Billions of dollars in federal funding have allowed state and local police departments to gain access to weapons, tactics, and training created for overseas combat theaters—and yet very little is known about exactly how many police departments have military weapons and training

and how extensively federal money is incentivizing this trend. **Ironically in South Carolina, where state officials repeatedly reject federal funds for health care and education, many law enforcement agencies have virtually unlimited access to military equipment and training at little or no cost.** We asked Allie Bohm, Advocacy and Policy Strategist at the National ACLU, to explain why we should be concerned.

Why should people who care about civil liberties worry about this trend?

If the anecdotal evidence is any indication, tanks and counter-terrorism strategies encourage overly aggressive policing. Picture law enforcement throwing “flashbang” grenades to cause confusion, breaking down doors, and entering guns a-blazing in everyday law enforcement situations, like drug raids. While very few of these raids result in actual charges, they often provoke fear, hurt individuals and families, and damage personal property. We also know that the war on drugs has been waged most aggressively in poor neighborhoods and communities of color. If police are using military machinery and tactics to make drug arrests, people of color may be victimized by at rates higher than those in wealthier (and whiter) communities.

The ACLU of SC, along with affiliates in 24 states, filed public records requests to determine the extent to which federal funding has fueled the militarization of state and local police departments. In South Carolina, requests were filed in Beaufort, Horry, Richland and York Counties. What do we know so far?

We’re still seeking more information, but we already know that Richland’s Sheriff’s Department has an armored personnel carrier they dubbed “The Peacemaker.” The carrier can shoot weapons that the U.S. military specifically refrains from using on people and that is generally reserved for use against armored vehicles. Sheriff Leon Lott insists that the “Peacemaker” will save lives. It’s hard to imagine how Sheriff Lott envisions using the “Peacemaker.” Richland’s violent crime rate is down 3.7%; its overall crime rate is down 3.8% compared to last year. Many of the crimes that take place there relate to drug use or gambling, not exactly crimes that call for an armored personnel carrier response.

(Continued on page 2)

From the Executive Director...

Victoria Middleton



On the eve of the Supreme Court arguments in *Shelby County v. Holder*, the ACLU of SC organized a rally at the Statehouse in Columbia to urge the Supreme Court to Uphold Article V of the Voting Rights Act.

Our rally highlighted the critical importance of Section V, which requires states like South Carolina, that have a history of discriminating against minority voters from changing their voting laws without Department of Justice clearance.

Delores Freelon, a woman whose birth certificate does not include her name and who figured in our challenge to the state’s Voter ID law, joined the rally. “I’ve lived in several states starting with California, my home, and then Arkansas, Louisiana, Texas, and New York, and then I came to South Carolina and they rejected my birth certificate,” said Freelon (pictured below). If the U.S. Justice Department



had allowed South Carolina’s voter ID law to go into effect right away, “I wouldn’t have been able to vote, so I was fighting hard for my vote because my one vote counts!” she said.

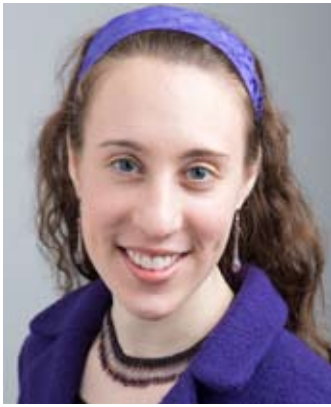
When Congress reauthorized the VRA in 2006—with sweeping bipartisan support—few could foresee the rash of voter suppression bills that followed the 2008 election. These included the SC Voter photo ID that is now required at the polls, although a federal court blocked its worst provisions from taking effect in the November 2012 election.

Mitigating the impact of the photo ID requirement is not the end of the matter. (See Legal Director Susan Dunn’s column on page 3.) While efforts to pass a robust early voting bill were not successful during this half of the legislative session, we continue to fight for improved voter access, defend against voter mitigating the impact of the photo ID requirement

(Continued on page 4)

Tanks, Drones and a Town Near You

(Continued from page 1)



Allie Bohm

The same county (Richland) has procured unmanned aerial vehicles (UAVs), also known as drones. Congress has required the FAA to open domestic airspace to drones more widely by 2015. Why should law-abiding citizens mind having drones deployed in their neighborhood or public places?

It's a core principle in our society that the government does not collect information about individuals' activities just in case they do something wrong. Drones threaten to turn that principle on its head.

Imagine being watched all the time not knowing what the watchers were looking for. In the future, small, hovering devices will be able to explore hidden spaces, peer in windows, or even enter homes, and large static blimps will enable continuous, long-term monitoring.

Faced with the prospect of unregulated UAVs, people may change how they behave and what they say in public—whether at a political rally or in their own backyards.

Usage of drones may also encourage problems we've seen with video surveillance—voyeurism, racial profiling, and automated law enforcement, where technology is used to mete out justice with little or no human intervention.

What can be done to contain warrantless surveillance?

Drones have the potential to be used for good or ill. They can fight forest fires report on traffic, or find missing hikers for less than the cost of a helicopter or other manned aircraft.

With good privacy ground rules, we can enjoy the benefits of technology without becoming a "surveillance society" in which every move is monitored, tracked, recorded, and scrutinized by the authorities.

South Carolina legislators have introduced bills to regulate UAVs and protect privacy. We will work with legislators to make sure those bills retain their strong privacy protections and to encourage their passage.

2013 ACLU of SC Board of Directors

Adolphus Belk	Robin Garrell	Robert Moss
Russell Bennett	Glen Halva-Neubauer	Ron Romine
Tammy Besheres	Marcy Hayden	Ivan Segura
Marta Borinsky	Heath Hoffmann	Sam Shoemaker
Millicent Brown	Susan Kuo	Anne Tromsness
Heather Cairns	John Leiter	Harry Wilkinson
Joseph Darby	Romina McCandless	

From the President

WE WANT YOU...

to stay engaged as supporters of the ACLU in South Carolina. The ACLU of South Carolina's robust program has yielded victories in the past half year that would not have been possible without the time, talent and financial contributions of all of you. The volunteers serving on the Board commit their time, expertise and passion to providing a strategic vision of civil liberties in South Carolina.



Those of you who march or staff tables at rallies increase our profile around the state. Affiliate staff rely on outstanding interns and other volunteers to help screen and respond to intake letters about civil liberties violations. Cooperating attorneys and legal experts are vital partners in our legal program—critical in a state with many challenges and a small ACLU staff.

And finally, your generous financial contributions make it possible for the ACLU of South Carolina to protect the civil liberties of the most vulnerable and defenseless in our state. Thank you for the many ways you stand with us.

Annual General Membership Meeting Notes

The ACLU of South Carolina held its 2013 general membership meeting at the USC School of Law in Columbia on Saturday January 12, 2013.

Board President Joseph Darby introduced the Board of Directors, a diverse group of civic activists and leaders from throughout South Carolina. He then welcomed members from around the state, noting that they play a vital role in educating the public and advocating for civil liberties. Executive Director Victoria Middleton briefed on the past year in review, highlighting the affiliate's work in public education, advocacy and litigation.

She summed up priorities for the 2013 legislation session, including amendments on voting rights, threats to reproductive health and equal protection. She noted that the affiliate would also lobby the South Carolina delegation to Congress on comprehensive immigration reform.

Office and program manager Jan Landry talked about the important roles played by volunteers in public education grassroots advocacy.

Legal director Susan Dunn briefed on representative impact litigation and docket, summing up the year past and highlighting the affiliate's work on a model First Amendment challenge that led to the launch of a National ACLU campaign, "Religious Freedom Goes to School in SC." The meeting closed with a question and answer period and social gathering.

Highlights From the Legal Docket

Susan Dunn, Legal Director

Right to Counsel in Magistrate and Municipal Courts:

Data collected by interns confirmed that many magistrate and municipal courts do not provide counsel for indigent criminal defendants. We filed amicus briefs in support of Defendants requesting counsel in cases pending in Municipal Court of the Town of Hilton Head, the Municipal Court of Surfside Beach, and the Municipal Court of Beaufort.

In March, on the 50th anniversary of the U.S. Supreme Court's landmark Gideon decision, which established the constitutional right of an indigent defendant to appointed counsel, we mailed letters to all municipal and magistrate courts in SC requesting a review of each court's mechanism for providing counsel to indigent defendants.



In April, we were invited to make a presentation at a meeting of the SC Commission on Indigent Defense (SCCID). That group responded positively to our call to action to address this systemic problem. We will participate in the Gideon program sponsored by the SCCID on September 20 in Charleston.

HIV Segregation in Prisons: SC Department of Corrections (SCDOC) continues to violate basic human rights by segregating all prisoners who test positive for HIV. Since the publication of our report *Sentenced to Stigma—Segregation of HIV-Positive Prisoners in Alabama and South Carolina*, we have been in consultation with SCDOC urging it to end this inhumane policy in the quickest, safest way. We believe our negotiations will succeed in effecting a change in this outdated and discriminatory policy in the near future.

Voter ID Legislaton: After litigation which resulted in SC committing to an

expansive interpretation of its Voter ID law before the US District Court of DC, that court pre-cleared the law for elections after December 31, 2012.

We organized volunteers to monitor certification hearings after local elections to verify how the law is being enforced.

We monitored elections in Orangeburg and Greenville and all five counties involved in the Sanford-Colbert Bush election for Congress.

We reviewed the SC Election Commission training manual and publications educating the public about the new law. After our inquiries, the SC Election Commission changed the poll manager's handbook to clarify information given to voters who possess the required ID but fail to bring it to the polls.

We continue to request that the SCEC provide the public clearer information on voting if a person does not possess one of the required forms of identification.

Anti-Immigrant Legislation: Along with the National ACLU Immigrant Rights Project and other civil rights groups, we initiated a lawsuit seeking to block enforcement of SC's anti-immigrant legislation.

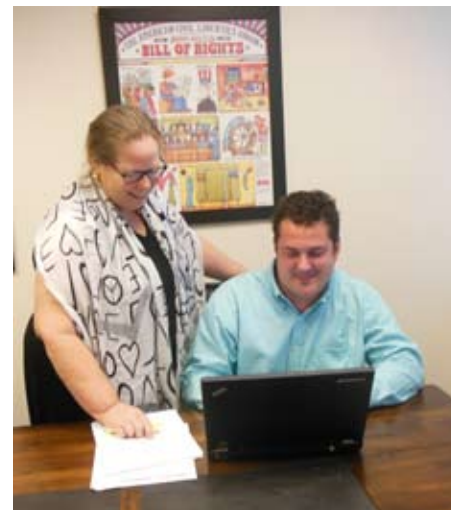
The trial court issued a preliminary injunction stopping critical portions of the SC anti-immigrant legislation bill from going into effect.

After the U.S. Supreme Court issued its decision in the appeal of the challenge to the Arizona law that is similar to our law, the SC court reviewed its original injunction. In November 2012, the trial court lifted its injunction on the "papers please" provision and left the rest of the injunction in place.

The state appealed the injunction to the 4th Circuit in Richmond, where arguments were heard last month.

We continue to prepare for the trial by collecting reports of bias-based law enforcement. We will also submit public records requests to selected law enforcement agencies across

the state to evaluate how the law is being enforced.



Susan Dunn, Legal Director of the ACLU of South Carolina, and De'Veau Stockton, Charleston School of Law intern.

Religious Freedom Goes to School:

Last summer, working with the National ACLU Program on Freedom of Religion and Belief, we began a statewide campaign to promote freedom from proselytizing and free exercise of religion in public schools.

We requested records from every school district in the state, and most districts made a good faith effort to respond. We are still negotiating with districts that have not submitted documents or have demanded exorbitant fees to comply.

We are in the process of analyzing each district's documented violations and will inform districts by mail in early June.

We will invite each district to undertake voluntary changes to bring its policies and practices into compliance with the law. We are drafting model policies that districts could enact to address some of the First Amendment violations.

Pulic Forum Protection: After our office identified potential plaintiffs to challenge the City of Charleston statute that is being used to arrest individuals who peacefully panhandle, street musicians, and artisans who make and sell palmetto roses, we asked to meet with senior attorneys for the city.

(Continued on page 4.)

Highlights From the Legal Docket (continued from page 3)

After meeting with us, **the city acknowledged that the ordinance in question had serious deficiencies and agreed to modify the ordinance.** We expect to review the proposed modifications before they are recommended for passage by City Council. In the meantime, peaceful panhandlers and street musicians are no longer being ticketed or arrested.

Protecting the Rights of Parents to Seek Redress for their Children: A group of parents from Irmo High School compiled a list of complaints about the behavior of their daughters' high school coach. Eventually the coach resigned voluntarily and was hired almost immediately by a nearby school.

The coach then sued the parents for making the complaints against him. The case was ultimately dismissed. The parents, who represented themselves, asked for sanctions as the coach's case sought to punish them for engaging in activity clearly protected by the First Amendment. The trial judge denied the sanctions.

We represent two parents in their appeal of the denial of sanctions. This case should be considered a **Strategic Lawsuit Against Public Participation (SLAPP)** case. If the court fails to consider sanctions for using the legal system for retaliation against protected speech, **then this case will highlight the need for Anti-SLAPP legislation in South Carolina.**

Choice of Name After Marriage: During the summer of 2009, Naomi married Ericka in Iowa. They chose to share the same last name after marriage. Upon presentation of the marriage certificate, the Social Security Administration changed Naomi's Social Security card to reflect her chosen married name. Naomi now lives in SC.

She needs consistent identification as she wants to work and get an advanced degree here. Naomi took her original marriage certificate and her Social Security card to the Department of Motor Vehicles to request a new license in her chosen name. She was told that she could not obtain a driver's license in this name, nor could she obtain a license or a SC ID that matches her SSN. She was instructed to get a court order.

A party in a heterosexual marriage may request a name change upon presentation of an original marriage license. Our office sent a letter outlining the constitutional problems with the policy denying Naomi her chosen name.



Emerging leaders training workshop at the Penn Center in Beaufort May 2013.

From the Executive Director (continued from page 1)

is not the end of the matter. (See Legal Director Susan Dunn's column for more.) While efforts to pass a robust early voting bill were not successful during this half of the 2-year legislation session, we continue to fight for **improved voter access**, defend against voter suppression efforts, and increase access for the disenfranchised, to ensure that as many South Carolinians as possible have the ability to participate politically.

As the Supreme Court heard arguments about the Defense of Marriage Act, we rallied with partners in Charleston, Columbia, and Greenville in support of **marriage equality**. We supported our partners at SC Equality in launching a workplace fairness bill (H.4025) that would prevent discrimination against LGBT employees wherthey work. We will be lobbying for its passage as this legislative session proceeds.

South Carolina is critical territory in the battle to mend our broken immigration system, and we are advocating for Congress to pass a **comprehensive immigration reform (CIR)** bill while we protect people locally from racial profiling by the police, based on how they look and sound.

With progressive allies, we organized press conferences on CIR in Charleston and Columbia, met with Senator Lindsey Graham's staff to urge respect for immigrants' rights to due process and equal protection, and trained emerging leaders in South Carolina's immigrant community on how to advocate for their rights. Legal Director Susan Dunn and our community organizer Antonio Garcia have conducted "know your rights" workshops in Beaufort, Myrtle Beach, North Charleston, and Columbia and trained volunteers to monitor implementation of South Carolina's "show me your papers" law. (See our legal docket column, page 3 for more.)

We lobbied at the South Carolina Statehouse for a bill (H. 3514) that would **regulate the use of drones** by law enforcement agencies. (See the column, page 1, by Allie Bohm of the National ACLU.) It passed the House Judiciary subcommittee, and we'll continue to press for its passage this session.

We testified against a budget provision (Amendment 88) that would make it impossible for women to obtain safe and legal abortions; it failed to pass its subcommittee. We also took successful action against several bad budget amendments that threatened **women's health** and continue to monitor others that carry over till 2014. In all, our staff and volunteers analyzed, monitored and commented on 81 bills this session.

Without your support, this critical work would not be possible. Your investment in the mission of ACLU in South Carolina is truly improving the civil liberties landscape.



Jan Landry, Office & Program Manager, rallies for marriage equality.

Education and Advocacy

We've been in the South Carolina legislature lobbying against "bad" bills. We've been in the courts defending the rights of South Carolinians. And, we've been in the community educating and advocating for change.

March 25 and 26: Just before the Supreme Court arguments, we rallied and held vigils with our members, friends and coalition partners in Charleston, Columbia and Greenville in support of marriage equality and the repeal of the Defense of Marriage Act (DOMA).



April 3: Legal Director Susan Dunn participated in a panel discussion, "Justice from the Justices? The Supreme Court Rules," that covered cases SCOTUS heard this term, **Marriage Equality, Affirmative Action, Search Warrants for DNA, and Voting Rights**. Sponsored by the Department of Political Science at the College of Charleston.



April 24: The ACLU of SC, the NAACP of Charleston, the South Carolina AFL-CIO and the South Carolina Progressive Network held a press conference in Charleston to discuss their support for comprehensive immigration reform that includes a pathway to citizenship.

(Pictured at right are Victoria Middleton of the ACLU of SC and Kenneth Riley of the AFL-CIO at the Charleston press conference.)

We also participated in a Comprehensive Immigration Reform press conference with our coalition partners at the Statehouse in Columbia on **May 21**.

April 26: We joined the community at the YWCA of Charleston's 4th annual Stand Against Racism. Participants proudly carried the ACLU poster The Constitution is for the 100% at the rally on Calhoun Street.



Antonio Garcia (*pictured at far right*), ACLU of SC Immigrant Rights Community Organizer, staffed our information table at the YWCA.

June 22 - 23, 2013: South Carolinians gathered across the state to learn why they should care about Comprehensive Immigration Reform (CIR). Along with our immigration coalition partners, we sponsored screenings of *The Dream is Now* and a discussion of the status of the CIR legislation and recommendations of how citizens can be heard on this issue. Susan Dunn, Legal Director of the ACLU of SC led the discussion at the Charleston screening.

Please Join Us for Charleston Pride 2013

Charting a Course for Change
Saturday, August 3rd

The ACLU of SC staff and volunteers will be marching in the parade and staffing an information booth at the Festival.

9 AM Parade will start on Ann Street and continue down King Street to Broad Street and end at Colonial Lake.
Noon Festival and Rally at Brittlebank Park on Lockwood Drive (across from the Marriott Hotel).

**We need YOU to march or volunteer at our information booth.
Please contact Jan Landry at 843-720-1423 jlandry@aclusouthcarolina.org to sign up.**

On the Inside

Tanks, Drones and a Town Near You
Policing with Weapons & Tactics of War

Report from the Executive Director
Education, Legislation & Litigation

Report from the President
Staying Engaged with the ACLU of SC

Highlights from the Legal Docket
Legal Cases and Actions

Education & Advocacy
Past and Future Events

Invest in Freedom

The rights you save may be your own.

You can make a difference. Your generous financial support makes possible our defense of civil liberties in South Carolina.

Please use the enclosed envelope to contribute to the ACLU of SC Foundation.

To donate online, visit: aclusouthcarolina.org.

**ACLU of South Carolina
P.O. Box 20998
Charleston, SC 29413**

Non-Profit
U.S. Postage
PAID
Charleston, SC
Permit No. 137