

Civil Liberties News

Winter 2012



Speaking truth to power: Occupy Eugene's march on October 15 brought together 2,000 people. CLDC Executive Director Lauren Regan can be seen on the right with the green Legal Observer cap.

Newsletter of the Civil Liberties Defense Center



Occupy CLDC!

BY LAUREN REGAN, EXECUTIVE DIRECTOR

As I write this, I am sitting outside a student walk-out on the University of Oregon campus where students are protesting tuition hikes and the lack of post-graduate employment. I'm waiting to see if the university is going to threaten them with arrest, and whether I'm going to need to negotiate their release. The Occupy Movement is in full swing and CLDC has been involved almost 24 hours a day, seven days a week. CLDC has been actively involved in many facets, especially within our local Occupy Eugene movement, but we've also been providing advice and know your rights trainings around the state and country. We created a "Know Your Rights for Occupy Activists" DVD that we have sent to many occupations around the west coast thus far. We are coordinating lawyers and legal observers, acting as liaisons to city officials and media, conducting know your rights and other trainings, and much more. It has been an incredible, exhilarating, and exhausting experience that words cannot adequately describe!

As if this was not enough, the CLDC has also been extremely busy on another incredibly meaningful project. Through a small grant from the Spirit Mountain Fund, we have joined forces with the Rural Organizing Project and have been, and will

continue to provide Know Your Rights trainings to rural Latino communities regarding their rights when interacting with police and government officials, particularly with regard to immigration law and the rights of undocumented people. We have served over 300 Latino people thus far in Dayton, Hood River, Hermiston, the Dalles, and Prineville Oregon thus far. We will be covering all the corners of our state that normally receive very little or no legal assistance and education. It is heartbreaking to hear the stories of families who have torn apart by our country's deportation policies, but inspiring to see the strength and commitment in these communities to provide a better life for their children. The organizers at ROP translate the trainings into Spanish, and we always leave room for lengthy questions at the end. We also meet with local community organizers to assist them in coming up with ways to help make their communities safer; especially in finding ways to deal with local racist police officers that violate Oregon's law that prevents local law enforcement from acting like immigration police.

It is an exciting time to be a civil rights lawyer for the Civil Liberties Defense Center, and there has never been a better time to join us in this historic work. Thank you as always for your vital support!

THANKS, MMT!

In the heat of the Occupy protests, it feels great to give *thanks* to a local company for giving back in a big way. The Meyer Memorial Trust has given CLDC a Grant to support our Know Your Rights Program. *Thank you* Meyer Memorial Trust for your belief in all that we do! For more information on Meyer Memorial Trust, you can visit their website at www.mmt.org.

CLDC NEEDS HELP! VOLUNTEER!

The CLDC is need of volunteers for tabling, mailing parties, trainings and presentations, fundraising events, testifying at hearings, legal observing at demonstrations, social networking, or other activities based on your skills that you are willing to share. If you are an attorney, we would love to plug you into our litigation and activist defense programs. Contact us at 541-687-9180 or info@cldc.org.

Become a member today!

Who is a supporter?

Any person wishing to donate their time by becoming a volunteer or part of our Liberty Street Team to help the CLDC succeed in our mission.

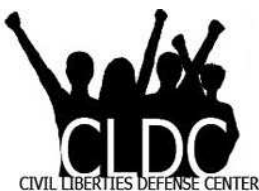
Who is a contributor?

Any person willing to invest financially in our organization's future.

What does my time and money do for me?

By supporting the CLDC, not only are you helping the progressive social change movement, but also protecting your rights. Other benefits include the Liberty Lovers Welcome Package, Email Alerts, and newsletters to keep you up to date on all that your generous donation has accomplished.

More info @
www.cldc.org



The Civil Liberties Defense Center is a nonprofit organization focused on defending and upholding civil liberties through education, outreach, litigation, and legal support and assistance. The CLDC strives to preserve the strength and vitality of the Bill of Rights and the U.S. and state constitutions, as well as to protect freedom of expression.

Occupy Eugene: Mic Check!!!

BY CHRIS CALEF, BOARD MEMBER

Wow! The past month and a half have without a doubt been another major historic episode in the history of Eugene. We just saw the biggest political march *ever*, many productive mass meetings, and quite possibly the largest and boldest move ever undertaken in this town on behalf of the unhoused since the Reagan years, all within the past six weeks. This has been done in solidarity with a worldwide movement against financial inequality and corporate domination of government. Times are indeed a-changing, and CLDC has been in the thick of it all!

I've been involved with Occupy Eugene since the first meeting of a dozen or so people in front of the UO student union. I've been very impressed with how quickly the movement has assembled serious, dedicated people, and how long we've been able to hold the Occupation together in the face of multiple challenges: several rapid changes of location, increasingly cold and wet weather, and an ever growing population of the city's most poorly treated people, seeking food and a legal place to camp. I've been *especially* proud of how we have been able to meet that last challenge head on, and care for this group rather than retreating from them or reacting with hostility. Our kitchen provides hundreds of meals a day, every day, our medical staff has saved at

least two people's lives on site, and numerous people have been able to use the Occupation as a way to turn their lives around and kick destructive habits. Many people who came to the Occupation for shelter are also becoming politically active, often for the first time in their lives.

And while I'm on the subject of Occupy... on December 12, the Eugene city council will be deciding whether or not to extend the camping ban for Occupy Eugene past the 15 of December. If you live in Eugene, please call or write to your city councillor before then to tell him or her how important it is that we be allowed to continue this project, without opposition or police repression from the city. You might even consider coming down to the council meeting yourself to speak in our favor.

I really must say, though, that I have never been so proud of Lauren Regan and the Civil Liberties Defense Center (and mind you, that's saying a lot) as I have been since the beginning of Occupy Eugene. Lauren has seemed to be everywhere at once, facilitating public meetings, planning marches, easing interactions with city officials and police, and advising Occupy members on their legal options and likely outcomes. Her long years of experience representing activists has made her one of Occupy Eugene's most valuable resources.

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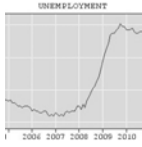
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GREETINGS, CITIZEN !

OCCUPY EUGENE WOULD LIKE TO SAY HELLO, AND ANSWER A FEW QUESTIONS YOU MAY HAVE.

Q: WHY DON'T YOU JUST GET JOBS?

A: In fact, most Occupiers have jobs, but the real answer is BECAUSE THERE AREN'T ANY JOBS! The few US jobs that had not already been shipped overseas by trade agreements like NAFTA were destroyed when financial speculators crashed the economy. Instead of being punished, they were rewarded, and now the rest of us, and all of our children, have been left to pay the price. UNLESS WE REFUSE.



Q: ARE YOU JUST A HOMELESS CAMP?

A: We are *partially* a homeless camp, because you can't give out free food without drawing in some of the 3.5 MILLION AMERICANS who lack adequate food and shelter. However, we are primarily a PEOPLE'S MOVEMENT fighting a system that PRETENDS IT IS ACCEPTABLE for 3.5 million of its own citizens to lack food, shelter and affordable health care. We have a government that fails to prosecute banks when they steal people's homes, but will never fail to cite YOU for sleeping in a park. We are camping in the park right now in order to bring your attention to these issues. If we all work together, WE CAN FIX IT!

Q: WHO ARE YOU PEOPLE?

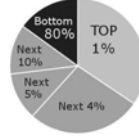
A: We are ordinary citizens, just like you, who are tired of seeing our democracy controlled and manipulated into serving the interests of the few instead of the many. We are people who care about the future of this country and of the rest of the world. We stand in solidarity with Occupy Wall Street in New York, the brave Egyptians in Tahrir Square, and all others who are ready to say: ENOUGH IS ENOUGH!



Q: WHAT DO YOU WANT?

A: We want real, systemic change. We want to get MONEY OUT OF POLITICS so the 1% can't control the government anymore. We want to TAX THE RICH and END THE WARS, and use that cash to create jobs, fix infrastructure, and provide education and health care to everyone who needs it.

US WEALTH DISTRIBUTION



We want America for the people, not just for the wealthy.

Q: OKAY, HOW CAN I HELP?

A: Easy! You can go to our website - OccupyEugeneMedia.org - to see the events schedule and check out our wish list. Cash donations help us with things like porta-potties. Say hello at the info booth to find out how you can help with the Occupation itself. Just having you on our side helps a lot. Write letters to the editor on our behalf, tell all your friends why you support us!

WE ARE THE 99%

One of the strengths of the Occupy movement is the thousands of individuals who have stepped up, taken some initiative and contributed many things in many different ways. This is an outreach flier made by Chris Calef for Occupy Eugene.

New CLDC Chapter in Portland

BY CHRIS RICHARDS, BOARD MEMBER

The Civil Liberties Defense Center will be launching a new chapter in Portland, Oregon, in early 2012. We will be providing Know Your Rights and Legal Observation trainings, legal support for protest activists, and organizing events and campaigns alongside a number of Portland organizations. If you are interested in participating, have some ideas, or questions, please contact us via email at cldeportland@gmail.com.

Occupy Eugene: Mic Check!!!

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Thank you so much for your continued support of Lauren and CLDC! Your generous donations, your attendance at events like the Harvest Feast, and your willingness to spread the word about us have been instrumental in giving Lauren the ability to spend her time supporting the Occupy Wall Street movement, and all of the other activists and causes to which she dedicates herself. Please keep the assistance flowing, and tell your friends and other organizations about us! All power to the 99%!

Court to Dismiss Keystone XL Pipeline Protesters' Charges in Montana

BY REBECCA SMITH, BOARD MEMBER AND COOPERATING ATTORNEY

In late October, a Montana court agreed to eventual dismissal of all charges against five activists arrested for protesting the Keystone XL pipeline. In July, the five activists had locked down in the Montana Governor's office in Helena, Montana, and demanded that he rescind his approval of the Keystone XL oil pipeline, part of which will travel through Montana. Although only five activists were arrested, dozens of other protesters had also rallied at the Governor's office that day against the oil pipeline.

The Keystone XL Pipeline would carry heavy crude oil 1,700 miles from northern Alberta tar sands to the U.S. Gulf Coast via Montana and six other states. Author Bill McKibben calls the pipeline "a fuse to the biggest carbon bomb on the continent" — the Alberta Tar Sands. Indeed, with three times the carbon impact of conventional oil, and requiring four times as much water to extract, development of tar sands oil has been condemned by NASA scientist Jim Hansen, one of the world's leading climate research scientists, who says that facilitating further such development by building the Keystone XL pipeline means it is "essentially game over" for the planet. Activists in Montana and around the country and world are



Over 100 environmental activists occupied the Montana Governor's office July 12 to protest the Keystone XL Pipeline.

continuing to fight the Keystone XL pipeline and the development of the Alberta tar sands.

CLDC cooperating attorney and board member Rebecca Smith represented the five activists arrested in Montana, with help from CLDC executive director Lauren Regan. The five activists were originally charged with trespass and obstruction for refusing to leave the Governor's office until the police cut them out of their



locking devices. The court dismissed the obstruction charge immediately, and it will also dismiss the trespass charge in one year. The activists have agreed to perform community service.

CLDC Defends Oregon Forests

BY BEN JONES,
CASCADIA FOREST DEFENDERS

In 2009, 27 protesters were arrested in the Elliott State Forest trying to prevent the clear cutting of the Umcoos Ridge No.2 timber sale. They were charged with disorderly conduct, criminal trespassing and interfering with agricultural operations. Who defended these Earth warriors? The Civil Liberties Defense Center. Initially the defendants were pinned with restitution for their arrests, amounting to over \$100,000. Attorney Lauren Regan whittled that number down to fines around \$1,000 or community service.

This summer, the CLDC was needed again, this time to defend the three tree sitters arrested trying to defend against the Elkhorn Ranch Timber Sale, also in the Elliott State Forest. After these arrests, members of Cascadia Forest Defense worked to defend the South Marlow Switch timber sale in solidarity with concerned Coos county citizens. As activists tried to legally protest the timber sale, Oregon Department of Forestry's (ODF) private security guards started handing out cease and desist orders, threatening to throw activists in jail for standing in the middle of a public road. Through the intervention of the CLDC, ODF stopped handing out illegal cease and desist orders and activists were allowed to continue to nonviolently protest.

Forest Defenders and forest critics were overjoyed to learn about the opening of the Southern Oregon branch of the CLDC. As long as the Oregon Department of Forestry continues its horrific forestry practices on Oregon's state lands, there will be brave people who will use their bodies and their wills to halt the destruction of these ecosystems. With the continued legal support and knowledge of the CLDC, we will be able to continue to fight for the wild with the knowledge that we will be able to face the legal system with the best attorneys.



Oregon State Police remove a protestor from a blockade in the Elliott

Forest defenders, environmentalists and so many other activists owe our continued existence and effectiveness to the Civil Liberty Defense Center. If we didn't have legal support, many brave people would either be in jail or too intimidated by legal repercussions to continue their work. Without the CLDC and groups like them, non-violent civil disobedience would be all but impossible. Please support grassroots activism — support the CLDC.

Spotlight on New Board Member:

CHRIS RICHARDS

BY REBECCA SMITH, BOARD MEMBER

The CLDC Board of Directors is excited to welcome new board member Chris Richards. Chris is the founder of several artisan related organizations that take a radical approach to utilizing music and art as politic tools. Holding a BA in Production Management with an emphasis in Contemporary Mythology from The Evergreen State College in Olympia, Washington. Chris has been working directly and indirectly on projects using creative mediums as sources of education and platforms to raise awareness his entire adult life.

In 2008, Chris founded Autonomous Music, a boutique booking agency and management firm which represents over 30 exclusive clients in the music industry. Autonomous Music books 1,000+ events a year across North America for national and international touring acts, and manages multiple facets of their careers. Using the comprehensive network that Autonomous has built as an agency and management firm, the company raises funds for non-profits and promotes workshops and educational trainings anywhere possible. Through Autonomous, Chris organizes benefit albums, panels at music festivals, creative merchandise lines whose proceeds are donated, and strategic alliances with radical organizations

allowing them to reach a wider audience.

In 2010, Chris founded The Art of Dismantling, as an interview series talking to political artisans about the connection between art and activism. For the series, he has interviewed artisans such as Seth Tobocman, Alan Moore, Derrick Jensen, Franklin Lopez, Chrystos, and many more. With a goal of creating stronger collaborative relationships between artisans and activists, the interviews are focused on the interviewees experience with pushing a political message, and what its place is in building a resistance movement. This coming year will see The Art of Dismantling expanding to a collective, which will be able to provide creative services to activist organizations, strengthening their campaigns through multimedia propaganda and projects, as well as providing panels and educational workshops on these topics. Along the way, Chris has been interviewed and/or featured by a number of music industry and business related magazines and blogs, such as *URB Magazine* and *Forbes*. He has facilitated workshops and panels at events and schools such as Evergreen State College, Earthdance Music Festival, Portland State University, Law and Disorder Conference, Maple Lane and Green Hill Youth Prisons (through Gateways for Incarcerated Youth), and more.

Spotlight on New Board Member: CHRIS CALEF

BY REBECCA SMITH, BOARD MEMBER



Chris Calef

The CLDC Board of Directors is excited to welcome new board member Chris Calef. Chris is a native Oregonian (as much as someone of European descent can be) with family roots in Eugene that go back to the Harlow wagon train in 1851. He grew up in Portland but moved to Eugene to pursue his Bachelors Degree in Geography from the University of Oregon, with specialization in temperate forest ecology. This led him into participation in several direct action campaigns related to old growth preservation in the late 1990s, during which he acquired a deep and long lasting respect for CLDC Executive Director and founder Lauren Regan and her tireless defense of radical activists.

As a member of the “Friends of Jeff Luers” prison support team until Jeff’s release, he had further occasion to work with Lauren and the CLDC, and was very excited to eventually join the Board of Directors.

Professionally, Chris is a game programmer and holds down the position of Chief Technical Officer in his company, BrokeAss Games, LLC. He is currently involved in applying the finishing touches to an animation program called “Ecstasy Motion.”



Chris Richards

(see feature on previous page)

CITIZENS' RIGHT TO TAPE IN

BY **MARIANNE DUGAN,**
BOARD MEMBER

Across the country, the courts have been addressing the legal issues involved when citizens record interactions with police officers. Many citizens would be shocked to learn that they are not allowed to audiotape officers (or anyone else) in a public place without giving a warning that they are taping (or in some states, obtaining consent).

In January, the CLDC is going to trial against the Eugene (Oregon) Police Department on behalf of an activist who was arrested and (we allege) assaulted during the arrest, for taping his conversation with EPD Officer Bill Solesbee. This lawsuit, which CLDC Executive Director Lauren Regan and I are litigating, has many of those legal issues.

The Solesbee Incident

In March 2009, forest activist Josh Schlossberg was conducting public outreach related to an environmental campaign, standing beside an information table at the edge of a public sidewalk in front of Umpqua Bank in downtown Eugene, handing brochures to bank customers and members of the public as they walked by. He was not blocking pedestrian traffic or creating any sort of disturbance. An EPD Officer, Barab, came onto the scene and initiated a conversation with Schlossberg

who informed Barab he was going to record their conversation with his camera. Barab said she was also recording the interaction. Barab said she was responding to a call from the bank, but told him the call was “very vague” and did not indicate that any law had been violated; and she finally concluded, “you’re fine,” and left after asking Schlossberg for his name.

A few minutes later, another EPD Officer, Bill Solesbee, arrived on the scene, walked past Schlossberg, told him he had to leave, and then entered the bank. Schlossberg replied that his activities were constitutionally protected, but while Solesbee was in the bank, Schlossberg decided to leave, and began packing up his materials.

When Solesbee walked out of the bank, Schlossberg held his digital camera at chest level and told Solesbee he was going to record their interaction. Solesbee admits he heard something about recording. A discussion ensued about the legality of the leafleting activities.

Backing up a bit, there is a bit of history here. In May 2008, Schlossberg witnessed Solesbee and other officers use physical force to arrest an environmental activist in downtown Eugene, and Schlossberg and several other people filed complaints with the Eugene Police Auditor and the district attorney’s office about

INTERACTIONS WITH POLICE

Solesbee's conduct. Schlossberg's name and picture were featured in front-page newspaper articles about his complaints against Solesbee.

Now, many months later, Solesbee had chosen to respond to a complaint that Officer Barab had already reported to and resolved. While debating with our client (who was audio- and video-recording the conversation), Solesbee stated, "there's a 'no tolerance' for this," and waved his hand in the direction of the leaflet table. Solesbee said our client could not have a stationary position on the sidewalk without a permit.



Solesbee suddenly asked if Schlossberg was recording him. Schlossberg responded that he was recording, and that had told Solesbee that twice. Solesbee replied that Schlossberg had only asked him if he could tape the interaction; pointed at the camera and said "Gimme that, that's evidence. Gimme that." Solesbee grabbed the camera,

twisted Schlossberg's arm behind his back, and forcefully took him to the ground. We allege that Solesbee also put his knee on Schlossberg's neck and injured Schlossberg. Solesbee handcuffed Schlossberg and took him to jail, where he remained for about five hours. During that time, Solesbee viewed the video contents of the camera, without consent or search warrant.

Solesbee charged Schlossberg with "unlawful interception of communications" and "resisting arrest," but the district attorney's office declined to prosecute.

The Oregon Statute and Case Law

The Oregon statute Schlossberg was arrested for supposedly violating is ORS 165.540(1)(c), "Obtaining Contents of Communications," which states that for in-person communications there must be "an unequivocal warning" that a conversation is being "obtained." However, the Oregon courts have held that "the statute does not require any particular form of warning" and does not even require that the party receiving the warning understand the warning. In other words, there is no "consent" required, just a "warning."

Solesbee admitted that Schlossberg "said something about recording" him but that he "didn't pay attention really to what he was

CITIZENS' RIGHT TO TAPE INTERA

saying.” That is why we were able to defeat the city’s/Solesbee’s motion to dismiss the false arrest claim and will be allowed to present the case to the jury.

The Oregon statute prohibits secret audio but not secret video, making it even more confusing for citizens to understand their rights in this situation. This statute legalizes video cameras in public places.

The federal appeals court that governs Oregon and the rest of the Pacific Northwest, California, and several other western states, has recognized a “First Amendment right to film matters of public interest.” Accordingly, the Oregon law includes an exemption for using “an unconcealed recording device,” to record “[p]ublic or semipublic meetings such as hearings before governmental or quasi-governmental bodies, trials, press conferences, public speeches, rallies and sporting or other events.” ORS 165.540(6).

The Oregon State Court of Appeals held just last month that a criminal conviction for recording a police officer (again in Eugene) had to be reversed, because the officer had told the citizen that he was being recorded on the patrol car’s camera. The court reasoned that there was therefore no need for the citizen to announce to the officer that he too was documenting the interaction.

We are thankful to Portland attorney Bronson James (who is not af-

filiated with CLDC) for taking that battle to the Oregon Court of Appeals and helping to create another limit on the abuse of the “intercepting communications” statute. The EPD’s response to that decision and other developments in the law was to state publicly that its officers will no longer arrest someone whose only perceived crime is recording the police. “We trust that our officers are doing their jobs professionally,” said EPD spokeswoman Jen McCulley. “And we understand there’s a public interest in how our officers do their jobs.” Our client, Josh Schlossberg, certainly wishes that Officer Solesbee had taken that approach.

Developments in Other Parts of the Country

The ways courts have dealt with these issues has varied greatly across the country, but these cases are becoming numerous and increasingly publicized.

In Schlossberg’s case, not only did the district attorney choose to drop the charges, but the federal court denied the officer’s motion to dismiss our false arrest claim.

In Florida a 21-year-old was jailed on \$4,500 bail for allegedly recording officers on his iPhone after a traffic stop.

In Chicago a woman faced felony eavesdropping charges for recording internal affairs officers who she said

ACTIONS WITH POLICE, continued

were trying to talk her out of filing a sexual harassment complaint against a police officer. She was acquitted by a jury in August. An Illinois man was charged under the same felony statute for recording his own trial in the courthouse after being told there would be no record of the trial; but the court threw out the charges, questioning the application of a felony statute to such behavior. The ACLU has recently challenged that Illinois statute.



In Boston a lawyer (Glik) was arrested for using his cell phone to film Boston police arresting and assaulting someone. Glik was charged with illegal wiretapping, aiding the escape of a prisoner, and disturbing the peace. In August of this year, Glik (with the ACLU representing him) won a federal appeals court victory allowing him to pursue a false arrest lawsuit. This is the first time a federal appeals court has recognized a

clear First Amendment right to record police. The police argued the law was not clear, but the First Circuit Court of Appeals decisively rejected that argument. As in Oregon, the Massachusetts law does not require “consent;” it only requires that the recording not be secret. The court ruled that because Glik was openly recording the police by holding up his cell phone, no reasonable officer would have believed he was violating the law.

Unfortunately the First Circuit ruling is not binding law in Oregon; nor is a ten-year-old ruling from the Eleventh Circuit, which held that there is “a First Amendment right, subject to reasonable time, manner and place restrictions, to photograph or videotape police conduct... [and] to gather information about what public officials do on public property.”

Conclusion

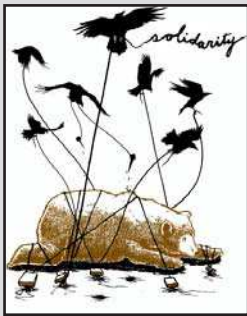
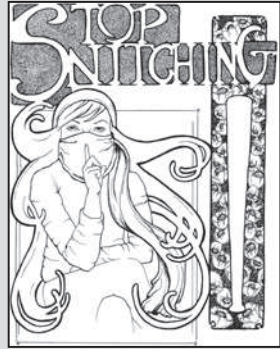
As you can see, the law regarding where, when, and how a citizen can record conversations is complicated. The Civil Liberties Defense Center regularly gives “know your rights” trainings on this and other issues regarding police interactions. We are hopeful that we prevail in the January Schlossberg trial, but no matter what the outcome, we believe that that lawsuit has already helped change the EPD’s approach to citizen taping of the police.

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MERCHANDISE

Stop Snitching T-Shirt

Proceeds from the sale of our new t-shirt support our activist defense programs. "Stop Snitching" is \$12 plus shipping and comes in a variety of colors and sizes.



Solidarity with Earth Defenders T-Shirt & Stickers

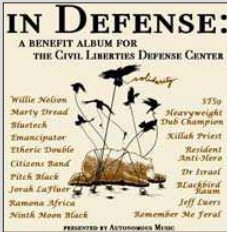
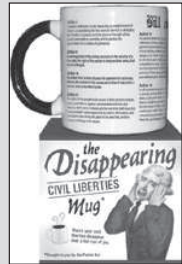
Be the coolest on your street with a lovely CLDC solidarity t-shirt. \$15

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Same image, 4" x 6" quality sticker, \$1 plus postage

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Brought to you by the USA PATRIOT Act. Watch your civil liberties disappear over a hot cup of tea. This time the disappearance of your rights isn't so bad; they reappear without much of a fight. \$10



In Defense: Vol. 1 the Civil Liberties Defense Center

The album is full of variety, featuring music ranging from folk to jazz to rock to reggae and beyond (including Willie Nelson!), all while preserving the importance of encouraging positive social change. \$10

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