Civil Liberties News

Summer 2012

In January, CLDC won a federal case upholding the right to privacy of activists who videorecord police. The federal court ruled that the Eugene Police Officer who seized and searched the camera of activist Josh Schlossberg did so illegally.

Newsletter of the Civil Liberties Defense Center

This picture shows the third day of the Winnemem Wintu War Dance. The purpose of the War Dance was to demand protection for young women during the upcoming Coming of Age Ceremony. In the past, this sacred ceremony has been interrupted by drunken boaters speeding by, hurling racial slurs, and exposing themselves.

June 30 - July 3, 2012, the Tribe will be holding the ceremony. This time, they are calling on allies, including the CLDC, to provide boats, kayaks and bodies to help protect the ceremony. CLDC will be facilitating carpools and providing legal support. Please support the Winneman Wintu in person or by donating. Get more info at cldc.org or by emailing info@cldc.org. See you on the river!

A Big Thank You to Emancipator, Diego Banuelos, and Autonomous Music

This winter, the Civil Liberties Defense Center was fortunate enough to have two amazing artists team up for a great fundraiser. International touring musician Emancipator and Portland based graphic designer/artist Diego Banuelos joined forces to create a limited edition signed and numbered Emancipator poster. The run of posters was limited to 100 and sold out in a quick two weeks, raising a very helpful sum for the CLDC.

The project was put together and managed by Portland, Oregon, based Autonomous Music, a booking agency and management firm in the music industry dedicated to supporting change through creative means.

If you have a moment to check out the work of Emancipator and Diego Banuelos, please do, and we highly recommend supporting them if you can.

Emancipator tours year round. Find info on his music, merchandise, tours, and more on his website: emancipatormusic.com

Diego Banuelos works out of Portland, Oregon. Info on his projects and art can be found on his sites: iamdbdesign.blogspot.com/ and iamdbdesign.tumblr.com

Stay tuned on more poster collaborations between touring musicians and graphic artists in the future, as Autonomous Music will be organizing a poster project every quarter in 2012 as a fundraiser for CLDC!

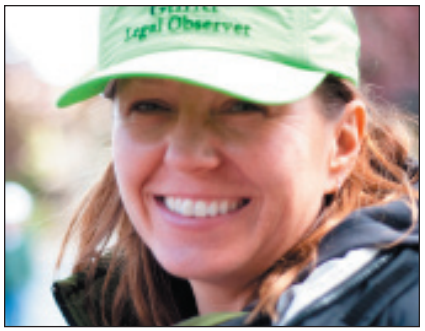
Information on Autonomous Music can be found on their website: autonomousmusic.org

CLDC
CIVIL LIBERTIES DEFENSE CENTER

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.

Outbursts from the Director

BY LAUREN REGAN, EXECUTIVE DIRECTOR



Civil Liberties Defense Center Executive Director Lauren Regan

Happy Summer everyone! Now that the cold weather is fading from memory, can we get everyone back onto the streets and finish up this strategic shutdown of nasty corporations and accomplice government agencies? That's what I thought. Now before you lace up your marching shoes, make sure you have your essential items with you:

When was the last time you attended a Know Your Rights training for activists? You know, a lot has changed since the 70s, my friends. Hell, a lot has changed since 2011 if you consider the potential effects of the National Defense Authorization Act, the Federal Restricted Buildings and Grounds Improvement Act of 2011 Executive Order 12919, and the National Defense Resources Preparedness update. What? You weren't aware of these new laws? Well, you'll have to read the CLDC article on p. 14. While you are at it, consider scheduling a Know Your Rights training for your community organization so everyone knows what to expect, what their rights are, and what the potential legal consequences might be for their actions while out on those streets. Knowledge is Power, my friends, and that quote is never more appropriate than when dealing with the legal system.

Make sure you are carrying one of the CLDC *Know Your Rights* brochures to refer to, and you might as well include our business card (with your rights on the back side) just in case you need it. Not only does the CLDC represent hundreds of protestors, we can also serve as an attorney referral resource if you find yourself in need of an activist attorney or at least a sympathetic attorney (depending on where you are).

Does all this feel empowering? Good! Empowering activists to be more effective, growing our movement numbers, and of course fighting and winning for just causes is why the CLDC exists. If you support the CLDC, before you hit the streets, consider donating to us so we can continue to support you! We make it easier for you than dropping a banner. Simply go to cldc.org/support-cldc/donate, become a monthly donor and commit to supporting us with $5-$50 each month. You could also hold a house party or fundraising event for the CLDC. I am constantly amazed at the tiny collectives and person efforts that are undertaken to provide funds to keep CLDC afloat.

I've also been organizing an Occupation Education series this spring. The 15 weeks of workshops have covered the basic tools you need to be an effective community organizer: strategic campaign planning, using work plans, outreach, alliance building and

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From the Director continues

membership development, media, and how to avoid burn-out, to name just a few. Check out the Occupy Eugene website at www.OccupyEugeneMedia.org (look for Occupation Education) for all the details. Each session has also been recorded and is broadcast live via Livestream so that, wherever you are, you can get these skills!

It was pretty easy to organize the series and it has been a huge success, with both brand new and experienced activists and organizers participating. Our movements must constantly encourage and educate new organizers, and putting together a skill series involving local teachers/professors, union organizers, and long-time community organizers from different movements not only grows your movement, but also creates bonds to other movements that can be integral to all of our future successes. I strongly encourage people to organize these types of series in your community too.

CLDC continues to be heavily involved in many Occupy activities around the country, but since we are in Eugene, a lot of our focus is on Occupy Eugene. As spring begins to warm up so does the movement. Occupy Eugene has been focusing our campaign work and continues to heavily focus on wealth disparity and corporate greed.

One bit of an outburst I have wanted to vent, is a big HOORAY for our recent major victories against ALEC, the American Legislative Exchange Council. After years of solid legwork by CLDC and many other awesome organizations, the campaign to take ALEC out of the business of giving legislators money in exchange for pushing their legislative agenda has finally taken hold. For more on this, see the article on the next page.

So pack up your activist toolkit, strap on your shoes and constitutional rights, and join the revolution! Know the CLDC has your back. Please consider becoming a CLDC member or renewing your support today.

Become A Civil Liberties Defense Center Board Member

This is an extraordinary opportunity for an person who is passionate about CLDC's mission and who has a track record of board leadership, organizing skill, or fundraising.

CLDC's Board Members serve a two-year term, eligible for re-appointment. Board meetings are held quarterly.

In addition to going to the board meetings board members belong to at least one committee, responsible for more detailed work and more frequent meetings as needed. Committees include: Fundraising, Events, Litigation, Board Development, Communications, Finance, Personnel.

The Board serves as the ultimate authority for strategic decisions regarding mission and vision, budget, fiscal sponsorship acceptance, and policy, as well as supervision of the Executive Director. The Board is not expected to manage the day-to-day activities of CLDC. However, the Board works closely with the staff, and our mutual interaction is based on a high degree of self-management and consensus.

The responsibilities of person board members include:

Represent the organization in your community; be informed about the organization's mission, services, policies, and programs;

Attend at least 3 out of 4 of the board meetings, as well as at least one organizational event; serve on at least one committee; review agenda and materials prior to board and committee meetings;

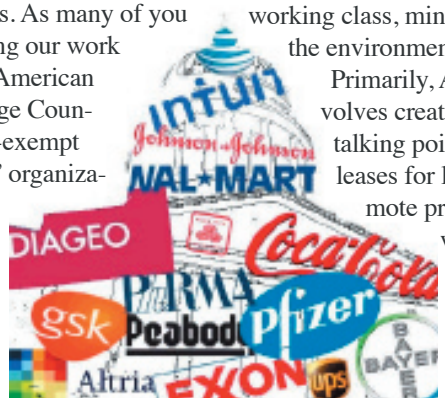
Take a leadership role in fundraising, donor prospecting, and Board development; review CLDC's annual financial statements and proposed Budgets and other relevant fiscal documents.

ALEC Update:

Victories Fighting Corporate Rule in Democracy!

By Heather Marek

As discussed in further detail toward the end of this article, CLDC is part of a coalition of nonprofit groups working to fight ALEC's corporate-oriented legislative proposals. As many of you know from following our work over the years, the American Legislative Exchange Council (ALEC) is a tax-exempt 501(c)3 "nonprofit" organization that works to promote corporate interests in public policy. Based in Washington D.C., ALEC is primarily a membership organization composed of hundreds of state legislators, and representatives of large corporations such as ExxonMobil, Koch Industries, and Peabody Energy. Though it claims to be non-partisan, it works almost exclusively through Republican legislators to promote an extremist right-wing agenda by enacting laws that benefit corporations and harm the working class, minority groups, and the environment.



Primarily, ALEC's work involves creating "model" laws, talking points, and press releases for legislators that promote pro-business, right-wing public policy. ALEC also facilitates conferences, "task forces," and other forums that bring together corporate representatives and legislators to allow for unfettered lobbying. ALEC argues that it only engages in "education," because if it admitted that this was lobbying, it would likely lose its non-profit status.

Examples of legislation ghost-written and promoted through ALEC include: Anti-collective bargaining rights (Wisconsin Governor Scott Walker's attack on public employee unions), rolling back environmental protections and denying climate change, attacks on civil liberties (Animal Enterprise Terrorism Act), anti-immigration laws (SB 1070 in Arizona), and limiting voting rights (requiring ID or proof of citizenship).

Most recently, there has been public outcry over ALEC's "stand your ground" legislation, which allows a person to use lethal force against another person and claim "self-defense"

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ALEC Update continued

simply if the person believes a threat exists, without even requiring the person to attempt to retreat first. Florida has implemented ALEC's "stand your ground" law, and the law has been invoked by the shooter in the recent killing of an unarmed 17-year old African American boy, Trayvon Martin, who was walking home in his father's gated community in Florida after going to a nearby store to buy iced tea and candy. A "neighborhood watch" volunteer named George Zimmerman was in the area in his vehicle and started following Trayvon. Zimmerman called 911 because he thought Trayvon was suspicious. The 911 operator told Zimmerman to stop following Trayvon. Instead of doing that, Zimmerman got out of his vehicle and confronted Trayvon and eventually shot and killed him. Zimmerman claimed self-defense under Florida's "stand your ground" law and the police released him without a charge.

In a normal situation where someone is shot and killed, the shooter would at least be charged with manslaughter. Then there is a hearing before a judge who decides whether to release the shooter pending trial, and whether to require bail. Then at trial, the shooter would be allowed to argue self-defense as the reason the jury should not convict him. It was not until the resulting national uproar at this obviously racially-motivated situation that the state's attorneys decided they needed to press charges against Zimmerman.

In the aftermath of the clear public sentiment against these laws, as well as numerous protests and boycott campaigns, ALEC announced on April 17, 2012, that it would be "sharpening" its "focus" to cover economic issues exclusively, instead of dabbling into racist, sexist, homophobic, anti-environmental, pro-gun "non-economic" issues. Great decision, boys. Now we can take even sharper focus on your continued agenda for corporate dominance and exploitation and bring that down next.

In response to the slew of legislative attacks on civil rights perpetrated by ALEC, a wide spectrum of organizations and citizens have been voicing their concerns about ALEC's inappropriate relationship with lawmakers and its abhorrent public policies. CLDC has developed several outreach materials to educate the public about ALEC, and executive director, Lauren Regan, has led workshops to help activists find strategies to peacefully fight back, or

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"stand their ground," if you will. Due to the pressure from CLDC and allies nationwide, we are seeing some excellent results. ALEC has publicly lost the backing of 29 legislators, as well as several large corporations who left feeling queasy: Coca Cola Company, Pepsi, Kraft, Intuit, McDonald's, Wendy's, Mars, Arizona Public Service, Reed Elsevier, American Traffic Solutions, Blue Cross Blue Shield, Yum! Brands (KFC, Pizza Hut, Taco Bell), Proctor & Gamble, and Kaplan. The National Board for Professional Teaching Standards, a nonprofit that participated in ALEC's tasks forces on educational policy, also withdrew support. This has been a sensational blow to ALEC's legitimacy, as well as their efforts to infiltrate our state lawmaking bodies.

Another huge setback to ALEC occurred in in late April. Good-government group Common Cause filed an official complaint with the Internal Revenue Service challenging ALEC's 501(c)(3) status, and asking that the organization pay penalties and back taxes.

Under its official IRS status as a 501(c)(3) "charitable organization," ALEC has been able to avoid paying almost any taxes, and its members can claim their contributions – which are actually lobbying expenditures -- as tax-deductible. Common Cause outlines multiple ways in which ALEC violates IRS regulations. Nonprofit organizations are permitted to partake in a limited amount of nonpartisan lobbying. However, a substantial amount of ALEC's time and expenditures is dedicated to advocating for legislation, exceeding that which is allowed by law. Furthermore, even those activities that are supposedly "educational" violate IRS regulations, as ALEC's presentation of the issues is unbalanced and highly partisan.

"Thus, even if a tortured interpretation of the regulations led to the conclusion that ALEC is not engaged in lobbying, ALEC would fail to satisfy the most basic requirement for 501(c)(3) status - operations that are exclusively for charitable purposes," Common Cause wrote in their report.

These successes are reason for celebration, and they have come from the diligent work of watchdog groups and their supporters. Groups such as the Occupy Movement and Move to Amend are continuing to work at the local and national levels to raise awareness about corporate corruption in politics and fight for the democratic rights of the people. It is a momentous time as we head into summer. Consider contacting us or our coalition partners to learn how you can take action.

For those of you who are interested in more information on ALEC, we have a video of CLDC Executive Director Lauren Regan giving an ALEC training in advance of the February 29 National Day of Action Against ALEC that originated in Portland, Oregon, (where this training took place) at cldc.org/tag/alec.

"Every activist should devote at least 10% of their activist time and energy toward destroying ALEC and what it stands for," says Lauren Regan. CLDC will continue to do so, and we would be happy to assist your group by providing ALEC campaign trainings.

Check out all our info and resources on ALEC at cldc.org/dissent-democracy/patriot-act-government-repression/fighting-corporate-control/.

Victory for CLDC

In Line With Recent Developments Across the Country, the Right To Leaflet In Public and Record Cops Is Vindicated In Eugene, Oregon

In January 2012, after a five-day trial, a federal jury in Eugene, Oregon unanimously found that Eugene Police Officer Bill Solesbee violated the Fourth Amendment to the U.S. Constitution in three ways: unlawfully arresting environmental activist Josh Schlossberg without probable cause, illegally searching Schlossberg's video camera, and using excessive force to arrest Schlossberg.

In this lawsuit brought by Civil Liberties Defense Center, the jury awarded modest monetary damages to pay Schlossberg's medical bills, and CLDC settled its large attorney fee/court cost bill with the city. The city paid $232,000 for Schlossberg's damages and the attorneys fees and costs, which were split between several attorneys, with the remainder to be used for future CLDC litigation (under IRS law those funds cannot be used for CLDC's general operations). The City spent hundreds of thousands of dollars on its own lawyers to defend against the claims, and never made a settlement offer, despite Schlossberg's early willingness to settle without a trial.

Federal Judge Thomas Coffin had already ruled before the trial that Officer Solesbee's search of Schlossberg's camera without a warrant violated the Fourth Amendment. However, the judge held that Solesbee would be off the hook on that point if the jury found the arrest to be legal, because Judge Coffin found that the law on that point was not entirely clear at the time of the incident.

In March 2009, Josh Schlossberg, a local environmental organizer, was lawfully handing out leaflets on the public sidewalk outside Umpqua Bank in Eugene, Oregon. As a trained videographer who had witnessed several acts of police brutality against environmental activists, Mr. Schlossberg carried a camera with him to most public political events. A bank employee called the police as an "FYI," and Eugene Police Officer Caryn Barab came and spoke to Mr. Schlossberg and his colleague.

There is an Oregon law that requires notice of audio recordings, but it does not require *consent* by the person being recorded and no particular form of notice is required. Additionally, it is questionable whether the law applies to police officers performing public duties in public places due to First Amendment protections. Regardless, to be on the safe side, Schlossberg told the officer he was recording her. Officer Barab noted that she was recording as well. Barab determined the activists were complying with the law and told them they were "fine," and left the area.

Soon after, however, another officer, Sergeant Bill Solesbee, decided to dispatch himself to the scene. Before conducting any investigation, Solesbee walked by and told the two activists

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they had to pack up their things and leave. Solesbee went in the bank and spoke with staff inside. As Solesbee was coming back out of the bank, Schlossberg informed the officer he was recording. Sergeant Solesbee began to make repeated incorrect statements of the law regarding First Amendment rights on public sidewalks. Schlossberg stated he had conferred with an attorney and did not believe Solesbee's threats were legally accurate. Solesbee said, "Gimme that, that's evidence," and lunged at Schlossberg and his camera. The officer grabbed the camera, used a pain compliance hold on Schlossberg, and threw him to the ground. Schlossberg's head was pushed into the pavement and a knee jammed into his upper back and neck, and he sustained injuries that persist to this day.

Schlossberg was handcuffed and arrested for resisting arrest and "intercepting communications," which is the law that requires notice of recordings. However, the District Attorney refused to file any criminal charges and instructed the police department to return the camera without viewing its contents.

The instruction was too late – right after Schlossberg was placed in the police car, Solesbee had turned on the camera and viewed its contents without a warrant or consent. Eugene Police training and policy requires officers to receive a search warrant or written consent, and to turn electronic and digital evidence in to the Forensic Unit for proper evidence preservation.

Nine months earlier, the same officer had been the subject of a highly controversial citizen police review involving another environmental activist whom he had treated in a similar manner. Nineteen-year-old Ian Van Ornum had been performing street theater in downtown Eugene in a protest against pesticide spraying, when he was grabbed by Solesbee without notice, dragged across a street and thrown to the ground, his head hitting the pavement. Sergeant Solesbee's subordinate, Jud Warden, then shot the young activist with a TASER. Van Ornum was accused of walking across the crosswalk too slowly, causing traffic to slow.

Schlossberg had been one of the organizers of that rally, and witnessed Solesbee's unjustified brutality. He and about a dozen other citizens filed internal affairs complaints against Solesbee with the Eugene Police Department. He also requested that the District Attorney's Office file criminal charges. At that time, Schlossberg's photo was featured on the front page of the local newspaper in an article about the complaints against Solesbee – casting doubt on Solesbee's statement at this January's trial that he did not recognize Schlossberg when he argued with him outside of Umpqua Bank.

"This case protects the rights of people to record police officers in public places and holds this officer accountable for his failure to know the law he has sworn to uphold," said lead attorney Lauren Regan of the Civil Liberties Defense Center.

"This is a victory for free speech, civil rights, and the 99%," said Josh Schlossberg. "Eugene Police Officer Bill Solesbee was just a weapon in the hand of the corporate leadership of Umpqua Bank. If there was true justice in this world, I would be able to sue clearcutting, toxic herbicide-spraying, native forest-logging, biomass power-profiteering, one-percenter

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VICTORY continues

Umpqua Bank Chairman of the Board Allyn Ford, CEO of Roseburg Forest Products – not just the tool that Ford and Umpqua Bank used against me in violence."

The City's choice to push this case all the way to trial instead of engaging in settlement negotiations was troubling and proved to be extremely expensive to taxpayers. Even more troubling is the Police Chief's insistence after the jury trial that Solesbee did nothing wrong – even though the Eugene Police Department states that it no longer treats the taping of police officers as illegal.

Eugene Police Department's change in policy is in line with recent advocacy by the U.S. Department of Justice, as well as two recent decisions from federal appeals courts for the .First & Seventh Circuits. In mid-May, the U.S. Department of Justice weighed in on a similar case from Baltimore involving a citizen who taped a police officer – *Sharp v. Baltimore City Police Department, D. Md. No. 11-cv-2888 BEL*. The U.S. Department of Justice's 11-page single-spaced letter, which was chock-full of case law and solid reasoning, began by stating: "It is the United States' position that any resolution to [the citizen's] claims for injunctive relief should include policy and training requirements that are consistent with the important First, Fourth and Fourteenth Amendment rights at stake when persons record police officers in the public discharge of their duties. These rights, subject to narrowly-defined restrictions, engender public confidence in our police departments, promote public access to information necessary to hold our governmental officers accountable, and ensure public and officer safety." The U.S. Department of Justice stated in its letter that police policies "should affirmatively set forth the First Amendment right to record police activity"; that clear policies are needed regarding when a search of a citizen's camera is allowed; and "Police departments should not place a higher burden on persons to exercise their right to record police activity than they place on members of the press." The U.S. Department of Justice's statement of interest can be found at: justice.gov/crt/about/spl/documents/Sharp SOI 1-10-12.pdf and their letter is at: justice.gov/crt/about/spl/documents/Sharp Itr 5-14-12.pdf.

This letter follows on the heels of the First Circuit's decision in Glik v. Cunliffe, 655 F.3d 78 (1st Cir. 2011) which was discussed last issue, and the Seventh Circuit's decision in ACLU v. Alvarez, 679 F.3d 583 (7th Cir. May 8, 2012) which is discussed in this issue at page 19. Both cases recognize that citizens have a First Amendment right to record police officers engaged in their public duties in public places.

We at the Civil Liberties Defense Center are heartened that the jury in Eugene joined this trend towards protecting the right of citizens to record the public activities of police officers, and that the jury saw fit to hold Officer Solesbee accountable for his over-the-top, aggressive behavior and his ignorance of Constitutional rights. Although the City's litigation choices were costly to citizens, they allowed the Judge to issue an important decision setting the boundaries for future behavior; allowed a citizen jury to vindicate these important legal rights; and helped to fund CLDC's future litigation in support of civil liberties.

GUILTY-UNTIL-PROVEN-INNOCENT-OR-WEALTHY: EUGENE'S DOWNTOWN EXCLUSION ORDINANCE

BY HEATHER MAREK

Under the guise of public safety, the City of Eugene enacted a downtown exclusion ordinance in 2008, a law authorizing police to essentially banish citizens from the downtown. The law establishes a "Downtown Public Safety Zone," which community members refer to as the exclusion zone. Under this law, the mere allegation that a person has committed a criminal violation can lead to a 30-day exclusion from downtown. Actual conviction may result in an exclusion of an additional year. The City justifies this "guilty-until-proven-innocent" approach by claiming that exclusions are civil (like a restraining order), rather than criminal. This premise is used to explain away the entire exclusion process, which is riddled with social and constitutional problems.

Most people who face exclusion do not have an attorney, and many report the process to be confusing to navigate. As a result, very few people are able to advocate for themselves, either by challenging the exclusion or by requesting variances, which are exceptions granted to those with legitimate reasons that necessitate entering the forbidden zone. Since most of the folks appearing before the Municipal Judge don't have lawyers and don't understand what is happening to them, it's simply a matter of the prosecutor or police officer asking for the exclusion and the judge granting it. As a result, we have a process that is unfair, rigid, and damaging.

After it was clear that this process violates one's right to a fair trial, the City attempted to "fix" this issue by hiring an "advocate," one non-lawyer who was supposed to provide information and assistance to all poor people facing exclusion orders. It is our understanding that, to date, not a single person has utilized this resource, bringing into question the effectiveness of the advocate program.

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Out-of-sight, out-of-mind, Eugene's exclusion plan for the homeless.

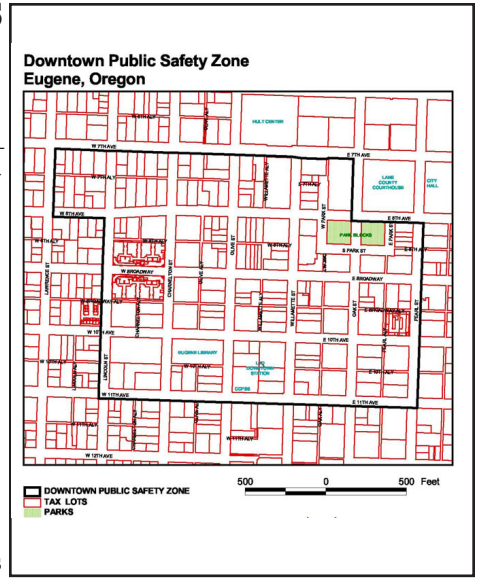
EXCLUSION CONTINUES

Homeless: KEEP OUT!

Many community members are critical of the exclusion law because it targets marginalized groups of persons, such as the homeless, who rely on public spaces for resting places, bathrooms, safety, or to simply socialize and be a part of the community. Eugene Police Department data has shown homeless persons to comprise the majority of arrests in the downtown, as well as an overwhelming majority of arrests for illegal camping, trespass, obstructing the sidewalk, and public urination and defecation that occur city-wide. This law is an extension of Eugene's history of telling the homeless and other "undesirables" that they are unwelcome.

In Portland, a law similar to Eugene's exclusion ordinance was found to disproportionately impact black communities. The CLDC knows it is only a matter of time until the Eugene law is also determined – in the courtroom or otherwise – to be archaic and discriminatory.

The City of Eugene and some business owners would prefer that these unhoused people go hang out where they can't see them—like under the bridges or anywhere else. But the issues of homelessness are only going to get worse in the coming years and it is our absolute responsibility to deal with these issues and not simply attempt to avoid them by forcing these persons to hide themselves from the more prosperous classes. The exclusion zone serves no legitimate purpose except to force homeless people away from the public's eyes and into less desirable locations that make all of us less safe.



Pseudo-Research Befitting Pseudo-Crime-Fighting

After four years, the Eugene Police Department has been unable to show that the Exclusion Zone Law reduces crime or improves public safety. Instead, Eugene has received criticism from the public for its pseudo-research, which fails to address concerns regarding how the law is applied on the streets and whether it is a policy that works. Nevertheless, in February, Eugene's City Council decided to extend the exclusion ordinance, yet again, this time until November 3, 2012, in order to provide seven more months for the Eugene Police Department to come up with data that answers the community's questions.

Not only have the Eugene Police failed to provide any substantive data on how the exclusion ordinance is being used, they have also been unable to articulate to the community what kind of standards are in place for deciding who

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to exclude, and how to enforce exclusions once they are given.

If the City of Eugene were to make its statistics regarding the exclusion zone public, we'd likely find that the vast majority of people targeted for prosecution are indigent, young, or mentally ill—all of whom have very little access to lawyers or legal information.

This lack of transparency and rigor shown by the Eugene Police Department only intensifies our concern that the law is being unfairly enforced against vulnerable people on the street.

Before the exclusion ordinance was passed, many of its supporters claimed that crime rates were on the rise. However, according to recent statistics, both property and person crimes have been consistently on the decline for several years. So what precipitated this community need to force people from our downtown commons?

Prior to implementation of this exclusion zone, a "Downtown Public Safety Task Team" was created to attempt to justify this unwarranted program. The Team, made up primarily of downtown retailers, admitted it wanted to create programs and incentives to encourage the homeless to go to other parts of town by giving them coupons for places outside of the downtown area. The Civil Liberties Defense Center believes that the language used by the Team made it clear that (1) the Team believes that many people are not welcome in downtown at all, (2) the Team is profiling people in order to decide who should be excluded from public spaces downtown, and (3) the Team is attempting to push the issues of homelessness, mental illness and other community concerns onto other neighborhoods with less visibility and public presence.

The Team paid some lip service about providing "services" to these communities, but other than witnessing cops and private security guards harassing and using our tax dollars to thrust expensive tickets on penniless people, we haven't seen much in the way of "service."

Amping Up For a Fight

The U.S. Constitution provides that everyone has the right to speak their mind and assemble with others in public places such as public parks and sidewalks. According to the U.S. Supreme Court, sidewalks and downtown common areas are considered quintessential public forums deserving of the maximum constitutional protections. The Constitution does not discern between rich or poor, young or old, homeowners or houseless citizens. Nor does it say anywhere that the sidewalks are only to be used for the interests of the business community.

This blatant violation of due process and other constitutional rights, such as those to free speech, legal representation, and equal protection is unacceptable. The CLDC has joined with excluded persons, activists, and other organizations in speaking out against this ineffective and unconstitutional policy from the streets to the City Council chamber.

CLDC is stepping up its efforts in combating Eugene's exclusion ordinance. We have formed a legal team to thoroughly explore the array of constitutional concerns associated with the law, and are also supporting community members in implementing a Cop Watch program, where volunteers act as witnesses in the downtown and help ensure that the laws are applied fairly. Contact our office if you are interested in getting involved.

NDAA, FRBGIA, NDRP, CISPA
AND OTHER REPRESSIVE NONSENSE

BY LAUREN REGAN

Three new laws and a presidential executive order passed in the last several months have created quite a stir among activists who are trying to stay up on the ever-changing minefield of proscriptive laws that are plaguing our democracy. Cumulatively, these laws evince a continuing trend regarding the Government's intention to become a police state and chill persons seeking to exercise their right to dissent, criticize, and invoke change. Whether these laws are intended to target the Occupy Movement or the general growing discontent of 'we the people' is still unclear, but we've certainly heard of a lot of fear from activists regarding what these laws mean and how they may affect the right to protest. This apprehension is particularly acute with the NATO summit on May 20th in Chicago, the Republican National Convention in Tampa in late August, and the Democratic National Convention in Charlotte in early September. [As a side note, please consider a donation to CLDC to help us pay for travel expenses to allow us to participate in the legal team organizing at these mass protests.]

National Defense Authorization Act (NDAA)

Every year Congress authorizes the budget of the Department of Defense through a National Defense Authorization Act (NDAA). The NDAA of 2012 (Dec. 31, 2011) is unprecedented in its attacks upon our basic democratic freedoms and may even trump the Un-Patriot Act in its threat to civil liberties. Tons of information is available online on this outrageously unconstitutional bill, but here are a few of the most troubling aspects of this law (signed by a Democratic, former civil rights lawyer, who is our first black president).

The worst provision empowers the Armed Forces to engage in civilian law enforcement, normally not allowed except if martial law is declared. They can suspend due process, habeas corpus, and many other rights guaranteed by the 5th and 6th Amendments -- AND impose indefinite detention without charge -- simply if they deem a person located within the U.S to be a "terror suspect."

This should make people jump off their couches and hit the streets in outrage!

As we saw in the Green Scare persecutions, the government will label activists as terrorists for sabotaging corporate or government property without ever harming a single living creature. Would Daniel McGowan or Jonathan Paul have been subject to indefinite detention if this law existed 5 years ago? Maybe so. The late historian Howard Zinn observed, "Terrorism has replaced Communism as the rationale for the militarization of the country [America], for military adventures abroad, and for the suppression of civil liberties at home. It serves the same purpose, serving to create hysteria." So-called terrorists are the government's enemy of the

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hour.

The NDAA also clearly violates the Equal Protection Clause by distinguishing between people based upon their national status (US citizens versus non US citizens) and allowing for differential treatment.

Many civil rights lawyers agree that section 1021 of the NDAA can be used by the State to indefinitely detain anyone the government considers a threat to national security and stability, even demonstrators and protesters exercising their First Amendment rights. The State has tried to placate the media and public by arguing that this law does not apply to US citizens. However, nothing in the law itself excludes or protects US citizens from the scope of the law. In fact, Section 1022 states that the Armed Forces can detain US citizens. Commenting on section 1022, Jonathan Turley, legal scholar and professor at George Washington University, explains, "The provision merely states that nothing in the provisions could be construed to alter Americans' legal rights. Since the Senate clearly [thinks that] citizens are not just subject to indefinite detention but even execution without a trial, the change offers nothing but rhetoric to hide the harsh reality."

Even more troubling, President Obama included a signing statement intended to clarify his reasoning for this law: "My administration will not authorize the indefinite military detention without trial of American Citizens." This shortsighted remark fails to acknowledge the fact that any subsequent president could use this law to arrest Americans and imprison them in military prisons forever, and without trial. According to Tom Parker of Amnesty International USA, the NDAA "provides a framework for 'normalizing' indefinite detention and making Guantanamo a permanent feature of American life."

Bryan Trautman, a military veteran and an instructor of peace and world order studies at Berkshire Community College, argued, "Since 2001, the Patriot Act, the AUMF (Authorization for Use of Military Force (9/18/01), and now the National Defense Authorization Act of 2012 have eroded many of our most valued constitutional rights. Our nation is moving away from government 'of the people, by the people, for the people' and toward a totalitarian state."

In the face of increasing government repression and fear mongering it is important to remember and act upon one of my absolute favorite quotes from Thomas Jefferson: "Dissent is the highest form of patriotism." So get out there and protest these attacks on our rights and help fight to restore democracy to this insanity!

F ederal Restricted Buildings and Grounds Improvement Act of 2011.

This law (HR 347), signed by the president in mid-March, expands an existing law that criminalizes certain activity in areas that are restricted by the Secret Service. It focuses on "restricted buildings or grounds," which are specific geographic zones that have been designated by the Secret Service, including the White House or the vice president's residence, a building or area where any person under Secret Service protection is visiting, a building or area at which a

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Nonsense continues

National Special Security Event (or "NSSE") is taking place, such as presidential inaugurations, nominating conventions, and other nationally significant events like the Super Bowl. The Department of Homeland Security has total discretion to designate one of these events as an NSSE based on things like the expected number of attendees and the presence of dignitaries. This is likely the zone that will be abused by the State in the face of growing mass dissent.
These areas are supposed to be clearly marked to alert protestors that they may break this federal law if they engage in protest within the marked zone. However, the law also criminalizes disruption IN OR NEAR the secure zone, or at the entrance or exit of a particular venue, so there is a lot of room for the State to stifle even lawful protest and dissent. In addition, the law kicks in whenever the Secret Service shows up if one of the following people are present, even temporarily: prez, VP and their families; former prez, VPs and families; certain foreign dignitaries; major presidential and VP candidates within 120 days or election; and other persons as designated by presidential executive order (could we see CEOs designated in our Orwellian future?).

The prior version of the law prohibited four types of activities that still remain illegal:

• You can't "knowingly" enter or remain in a restricted zone without lawful authority.

• You can't "knowingly" engage in "disorderly or disruptive" conduct in or near a restricted zone. The State must prove you intended to disrupt government business (duh) and that your conduct actually did cause a disruption (i.e. effective protest). You will have to guess at what the State means by "disorderly or disruptive" conduct because they don't define it—which means we are likely to challenge the constitutionality of the law on vagueness grounds when/if someone is prosecuted.

•You can't "knowingly" block the entrance or exit of one of these restricted zones.

• You can't "knowingly" engage in an act of physical violence against person or property in one of these restricted zones.

Two changes were made in this new version of the law. One was extending the statute to the White House and VP's house. The other pertains to the intent the government must prove to convict you. The prior version required you to act "willfully and knowingly" —that you knew you were in the restricted zone and knew that you were committing a crime by being there. The new version only requires you to act "Knowingly"—that you are aware you are in the restricted zone, not that it is illegal to be there.

If convicted, you can be sentenced for a felony or class A misdemeanor depending on whether you use a weapon or cause injury. Punishment ranges from the low end (maximum 1 year in prison and $100k in fines) to the high end (max 10 years in prison and $250k in fines).

For more details on this new law, check out thomas.loc.gov/cgi-bin/query/z?c112:H.R.347.

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National Defense Resources Preparedness

On March 16, 2012, Obama signed an Executive Order titled "National Defense Resources Preparedness." The order seems to beat the drums of war louder than we have heard in a while, and renews and updates the president's power to take control of all civil energy supplies, including oil and natural gas, control and restrict all civil transportation, and even provides the option to re-enable a draft in order to achieve both the military and non-military demands of the country (such as our insatiable addiction to oil and the likely interruption of our supply if the next waves of war break out in Israel, Iran, or elsewhere).

The Order states that "the United States must have an industrial and technological base capable of meeting national defense requirements and capable of contributing to the technological superiority of its national defense equipment in peacetime and in times of national emergency." It goes on in Section 103 C to authorize the President, "in the event of a potential threat to the security of the United States, to take actions necessary to ensure the availability of adequate resources and production capability, including services and critical technology, for national defense requirements." The task of advising is assigned, in Section 104, to "the National Security Council and Homeland Security Council, in conjunction with the National Economic Council," which "shall make recommendations to the President on the use of authorities under the Act."

One of the more frightening provisions in this Executive Order provides that the Secretary of Defense (the guy in charge of war) will have total control over all of our water resources in the event of a "national emergency," and you guessed it, the military gets first dibs on water, medical supplies, and even food! The Secretary of Agriculture will control food resources; the Secretary of Energy controls all forms of energy; the Secretary of Health and Human Services will control health resources (thank goodness for herbalists and naturopaths); the Secretary of Transportation with control all forms of civil transportation; the Secretary of Commerce controls all other materials, services, and facilities, including construction materials; and as I mentioned, the Secretary of Defense controls all water resources. Each of these Secretaries, according to Section 201, entitled, "Priorities and Allocations Authorities," will be empowered, subject to the President and his advisers, to "analyze potential effects of national emergencies on actual production capability, taking into account the entire production system, including shortages of resources, and develop recommended preparedness measures to strengthen capabilities for production increases in national emergencies." Their recommendations can, if need be, "control the general distribution of any material (including applicable services) in the civilian market."

In addition, Section 502 of the law seems to draft professionals and academics without pay: "The head of each agency otherwise delegated functions under this order is delegated the authority of the President under sections 710(b) and (c) of the Act, 50

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U.S.C. App. 2160(b), (c), to employ persons of outstanding experience and ability without compensation and to employ experts, consultants, or organizations."

Finally, in the event of an emergency, the Order would empower, "the head of each agency engaged in procurement for the national defense" to "procure and install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the Federal Government and to procure and install Government-owned equipment in plants, factories, or other industrial facilities owned by private persons." Stockpiling or prioritizing will not require a state of war.

In Section 310 entitled, "Critical Items," the government is empowered "to take appropriate action to ensure that critical components, critical technology items, essential materials, and industrial resources are available from reliable sources when needed to meet defense requirements during peacetime, graduated mobilization, and national emergency. Appropriate action may include restricting contract solicitations to reliable sources, restricting contract solicitations to domestic sources (pursuant to statutory authority), stockpiling critical components, and developing substitutes for critical components or critical technology items."

To summarize, the government can take control of any resources, including property, water, food, and people, pretty much at any time, war or no.

For the full text of this one, go to http://www.whitehouse.gov/the-press-office/2012/03/16/executive-order-national-defense-resources-preparedness.

Cyber Intellegence Sharing and Protection Act

And finally, if you needed another reason to go out and renew your passport before we aren't allowed to leave 'the land of the free,' there is currently a bill circulating in our "congress" that is a dangerously overbroad. This law would allow companies to share our private and sensitive information with the government without a warrant and proper oversight. CISPA gives companies the authority to share that information with the National Security Agency or other elements of the Department of Defense, which could keep it forever. The Obama administration issued a veto threat on CISPA earlier this week and as of this writing, it has not passed or been signed into law.

We already know that Google stores all user data. Imagine all your emails, internet searches, Facebook data, and other personal information being available to the government without any due process or oversight. That is CISPA.

So, in case you can't tell, there has never been a more important time period to keep track of your government and speak up about what is happening to our constitutional rights and liberties. Rather than cower in despair, please consider arming yourself with the power of the people. Join your neighbors, whether through an Occupy movement or not, and make your voices heard. If not now, when?

If you appreciate these updates, please consider supporting our continued work with your monthly donation or other financial support.

Civil Liberties in the Courts

BY REBECCA SMITH

This is a new feature for Civil Liberties News that will provide summaries of new, interesting, or important court decisions that affect our civil liberties.

1.Federal appeals court halts implementation of Illinois law that makes it a felony to audio record a police officer without consent.

On May 8, 2012, the U.S. Court of Appeals for the Seventh Circuit (which makes law for federal courts in Illinois, Indiana, and Wisconsin), issued a preliminary injunction against an Illinois state law that makes it a felony to audio record a police officer performing public duties in a public place without first receiving the consent of the officer. The court found that the law posed a likely violation of the First Amendment.

The court held that the "act of making an audio or audiovisual recording is necessarily included within the First Amendment's guarantee of speech and press rights as a corollary of the right to disseminate the resulting recording." The court noted that if it did not recognize this as a First Amendment right, then "the State could effectively control or suppress speech by the simple expedient of restricting an early step in the speech process rather than the end result." It concluded that it had "no trouble rejecting that premise. Audio recording is entitled to First Amendment protection."

The court noted that the First Circuit Court of Appeals came to a similar conclusion in Glik v. Cunliffe, 655 F.3d 78, 79-81 (1st Cir. 2011). The Glik case was discussed in an article in our last newsletter.

The court also held that recording alone does not pose a legitimate law enforcement concern, and that "an officer surely cannot issue a 'move on' order to a person because he is recording . . . ." Thus, in order for an arrest of such a person to be valid, there would have to be some other "behavior that obstructs or interferes with effective law enforcement or the protection of public safety."

The official citation for the case is ACLU v. Alvarez, 679 F.3d 583, 2012 WL 1592618 (7th Cir. May 8, 2012).

2.U.S. Supreme Court says cop's warrantless GPS tracking device on vehicle is unconstitutional.

On Jan. 23, 2012, the U.S. Supreme Court unanimously held that police conduct was unconstitutional when, without a warrant, police attached a global positioning system (GPS) tracking device to a person's vehicle, and then used that device to monitor the vehicle's movements for four weeks. Justice Scalia, writing for the majority opinion, stated that it is a violation of the Fourth Amendment when the "Government obtains information by physically intruding on a constitutionally protected area."

In a concurring opinion, Justice Sotomayor stated, "Awareness that the Government may be watching chills associational and expressive freedoms. And the Government's unrestrained power to assemble data that reveal private aspects of identity is susceptible to abuse…I would ask whether people reasonably expect that their movements will be recorded and aggregated in a manner that enables the Government to

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ascertain, more or less at will, their political and religious beliefs, sexual habits, and so on…I would also consider the appropriateness of entrusting to the Executive, in the absence of any oversight from a coordinate branch, a tool so amenable to misuse, especially in light of the Fourth Amendment's goal to curb arbitrary exercises of police power to and prevent a too permeating police surveillance." The official citation for the court decision is U.S. v. Jones, 132 S. Ct 945 (2012).

3. U.S. Supreme Court will revisit controversial "Citizens United" decision that says corporations have a First Amendment right to buy elections.

On February 17, 2012, the U.S. Supreme Court issued a decision indicating that it will likely revisit the controversial "Citizens United" decision (which gave corporations a "First Amendment" right to spend unrestricted and unlimited funds on political campaigns) when it reviews a recent decision by the Montana Supreme Court. In the court's order, Justice Ginsburg stated, "Montana's experience, and experience elsewhere since this Court's decision in Citizens United v. Federal Election Commission, make it exceedingly difficult to maintain that independent expenditures by corporations 'do not give rise to corruption or the appearance of corruption.' A petition for certiorari will give the Court an opportunity to consider whether, in light of the huge sums currently deployed to buy candidates' allegiance, Citizens United should continue to hold sway."

The underlying Montana Supreme Court decision at issue held that, despite the Citizens United decision, the State of Montana would continue to enforce restrictions on corporate campaign contributions due to the demonstrated history of corporate corruption in Montana and the state's continued susceptibility to corporate corruption. In its decision, the Montana Supreme Court noted the general principle of First Amendment law that restrictions on free speech are lawful if there is a compelling government interest to justify the restriction. The Montana Supreme Court stated that while there may not have been a compelling justification in Citizens United, there is a compelling justification in Montana.

The Montana Supreme Court stated, "clearly [state voters] had a compelling interest to enact the challenged statute in 1912. At that time the State of Montana and its government were operating under a mere shell of legal authority, and the real social and political power was wielded by powerful corporate managers to further their own business interests. The voters had more than enough of the corrupt practices and heavy-handed influence asserted by the special interests controlling Montana's political institutions. Bribery of public officials and unlimited campaign spending by the mining interests were commonplace and well known to the public." The Montana Supreme Court further stated that the state still has a compelling interest to restrict corporate influence: for example, it noted that "[i]n the 2008 contested election for Chief Justice of the Montana Supreme Court, evidence presented by the State in the District Court indicated that the total expenditure for media advertising was about $60,000. It is clear that an en-

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tity like Massey Coal, willing to spend even hundreds of thousands of dollars, much less millions, on a Montana judicial election could effectively drown out all other voices."

The citation for the U.S. Supreme Court order is American Tradition Partnership v Bullock, 132 S.Ct. 1307, 2012 WL 521107 (February 17, 2012) (NO. 11A762). The citation for the Montana Supreme Court order is Western Tradition Partnership, Inc. v. Attorney General, 363 Mont. 220, 271 P.3d 1, 2011 WL 6888567 (Dec. 30, 2011).

4. Federal appeals court says mass arrest of Chicago anti-war activists may have been illegal. Cops settle case by paying activists $6.2 million.

On March 17, 2011, the U.S. Court of Appeals for the Seventh Circuit (which makes law for federal courts in Illinois, Indiana, and Wisconsin), held that Chicago police may have falsely arrested over 900 persons in a mass arrest during an anti-war demonstration in 2003. The police had waived the permit requirement for the march and so there was no set route for marchers to follow. At one point in the march, people began to march down a street where police decided they did not want people to walk. At that point, the police created a line on either side of about 1,000 people marching and arrested everyone trapped in between the lines. All charges were later dropped.

The court held that this type of arrest was unconstitutional because "before the police could start arresting peaceable demonstrators for defying their orders they had to communicate the orders to the demonstrators…What they could not lawfully do, in circumstances that were not threatening to the safety of the police or other people, was arrest people who the police had no good reason to believe knew they were violating a police order…there was no permit, there was no prescribed march route, and there was no mechanism (at least no mechanism that was employed) for conveying a command to thousands of people[.] [P]olice must give notice of revocation of permission to demonstrate before they can begin arresting demonstrators." The court sent the case back to the federal district court for a full trial.

On February 9, 2012 the parties reported to the federal district court that they had reached a settlement agreement. The police have agreed to pay $6.2 million to the falsely arrested activists. The police will also have to separately pay the attorneys' fees for the team of six lawyers who spent almost nine years litigating the case.

The citation for the opinion by the federal appeals court is Vodak v. Chicago, 639 F.3d 738 (7th Cir. 2011). The federal district court case number is 03-2463 in the Northern District of Illinois.

5. Federal appeals court says photojournalist might have First Amendment right to unrestricted access to wild horse roundup on public lands.

On February 14, 2012, the U.S. Court of Appeals for the Ninth Circuit (which sets the law for federal courts in Alaska, Washington, Oregon, California, Arizona, Idaho, Montana, Nevada, and Hawaii) held that a photojournalist who wanted unrestricted access to observe wild horse roundups on public land in Nevada may have a First Amendment right to that access. The Bureau of Land Management (BLM) had set

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viewing restrictions for members of the public and press who wished to observe the roundups on the publicly owned BLM lands. The journalist argued that she was entitled to unrestricted access under the First Amendment.

The court held that "newsgathering is an activity protected by the First Amendment" and that there is a "vital public interest in preserving the media's ability to monitor government activities." The court held that courts cannot simply "rubberstamp an access restriction simply because the government says it is necessary." Instead, the court held that the federal district court must conduct a rigorous legal analysis that applies the law regarding the "qualified right of access for the press and public to observe government activities" to the facts of this situation to determine whether the journalist is entitled to unrestricted access.

The citation for the amended opinion is Leigh v Salazar, 677 F.3d 892 (9th Cir. April 16, 2012).

6. Oregon federal court says warrantless search of activist's digital camera is unconstitutional.

See our victory on pages 8-10!

7. Florida state court rejects idea that a cop who lies on the scene can transform into a credible truthful witness in court.

On January 17, 2012, a state court in Florida issued a refreshingly blunt assessment of the issue of police credibility. The law in general allows police to lie to citizens but jurors and judges must presume that police are telling the truth once they get on the stand in court. The court stated: "The uninitiated are often astonished to learn that the police may lie to a suspect in the course of an interview…Courts have held that it does not violate the Constitution for the officer to tell almost any tale to deceive the suspect. In many instances law enforcement may use others to perpetuate the falsehood without sanction. Many are also surprised to learn that the police may craft totally false and elaborate scenarios designed solely to place citizens in a position where the citizens may act in accord with their propensity to commit a crime. Officers, collaborators, and informants may participate in schemes that bring the opportunity to commit a crime to the citizen's doorstep to test his resolve and arrest him if he fails."

The court continued, "the police may come without probable cause to the door of one's home and tell an outrageous lie to gain access to the home without legal ramifications…In their quest to cross the citizen's threshold, the police need only create a sufficiently frightening, tempting, or threatening lie to trick the citizen into opening the door."

The court then pondered about "the costs suffered when naturally enthusiastic officers who are taught to be dishonest in one 'investigative' realm come to appreciate that dishonesty 'works' just as well when it is not legally permitted?…What are the costs of teaching the community that law enforcement officers, whom ideally deserve the trust of the citizen, cannot be trusted to tell the simple truth?...That the virtue of honesty…is optional for the executive branch of our government in the exercise of its police powers?"

The court concluded that "[t]he finder of fact in the courtroom, it is said, deserves to know the character of a witness as it pertains to his relationship with falsehoods in the past to better understand the likelihood of his truthfulness in the present. A liar, after all, is a liar… A person who admits to lie in the opening seconds of his testimony before the court cannot be heard moments later to say that his first lie was his only lie…There is significant sacrifice by the state when it relies upon dishonest police conduct at the base of its prosecution. Once the character or reputation of any witness has been damaged, it is difficult to reconstruct…" The court then granted the defendant's motion to suppress the state's evidence based on the lack of credibility of the police officer witness.

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The citation for this opinion is Florida v. Beauprez, Circuit Court, Seventh Judicial Circuit, Volusia County, Florida, Case No. 2011-35204-CFAES (Jan. 17, 2012).

8. Illinois state court says law that prohibits recording conversations without consent is unconstitutional.

On March 2, 2012, an Illinois state court invalidated a state law that made it a felony to record a conversation without the consent of all parties to the conversation. In the case at issue, a man was arrested for selling art on the street without a vendor's license. In the course of his arrest, he recorded his conversation with the police. The police discovered the recording and charged him with a felony for recording without consent. The court held that the statute was unconstitutional (facially and as-applied). The court found that the statute violates the constitutional guarantee to substantive due process because it "does not require an accompanying…criminal purpose for a person to be convicted of a felony [and]…potentially punishes as a felony a wide array of wholly innocent conduct."

The citation for the opinion is Illinois v. Drew, Circuit Court of Cook County, Illinois, County Department, Criminal Division, Case No. 10CR00046 (March 2, 2012).

9. Minnesota state court says arrests of anti-fur protestors are unconstitutional.

On May 3, 2011, a Minnesota state appeals court reversed the convictions of two animal rights activists arrested in Minneapolis for protesting outside Ribnick Furs and Leather. The court held that their jury trial convictions for disorderly conduct were unconstitutional because their political protest was protected by the First Amendment. The court held that in Minnesota, "[w]hen protected free speech is involved, the offense of disorderly conduct has been interpreted narrowly and as restricting only 'fighting words.'" For example, the court noted that the "[Minnesota] supreme court held that a retreating 14-year-old girl's statement to police, 'fuck you pigs,' did not constitute fighting words because she directed it at two police officers sitting in a squad car located 15 to 30 feet away." The court noted that "there was no reasonable likelihood that the statements would 'tend to incite an immediate breach of the peace or to provoke violent reaction by an ordinary reasonable person." The court also noted that "[r]ecent cases have struck down disorderly conduct adjudications of juveniles yelling hostile, vulgar, obscene, or provocative language, when their statements did not constitute fighting words because they were unlikely

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Liberties in Courts continues

to provoke retaliatory violence or incite imminent lawless action."

The court stated that "[s]peech on matters of 'public concern' is 'at the heart of the First Amendment's protection' and is 'entitled to special protection.'" The court stated that "[i]n this case, appellants' conduct consisted of holding signs, chanting, and making comments about animal abuse. Even the conduct by appellants that was directed at persons, consisting of shrieking and yelling through a closed window and stating that they knew where Ribnick and his mother lived and they knew his license plate number, did not constitute fighting words. No reasonable jury could have found that any of appellants' statements constituted fighting words as that phrase has been defined. Loud and even boisterous conduct is protected under Minnesota law, when that conduct is 'expressive and inextricably linked to a protected message."

The citation for the opinion is Minnesota v. Peter, Minnesota Court of Appeals, Case Number A10-1263 (May 3, 2011).

Civil Liberties Merchandise

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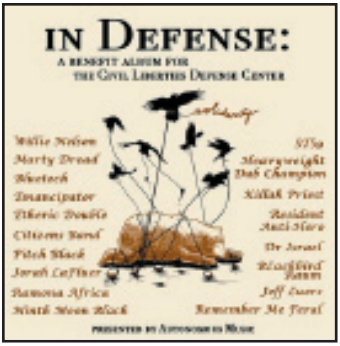

In Defense: A Benefit Album for the Civil Liberties Defense Center

This 13-track compilation of incredible talent includes STS9, Willie Nelson, Marty Dread, Bluetech, Dr. Israel and Seven, Heavyweight Dub Champion and Killah Priest, Pitch Black, Jeff Luers, Ramona Africa, Blackbird Raum, and more. The music ranges from folk to jazz to rock to reggae and beyond, all encouraging positive social change.

Solidarity T-Shirt

Show your solidarity with CLDC and earth defenders by sporting this beautiful t-shirt. Comes in a variety of sizes and colors.

Disappearing Civil Liberties Mug

You'll wake up pretty fast wtih your morning 'joe' as you watch your civil liberties disappear. Pour in your hot beverage and watch the painstaking work of the founding fathers vanish before your eyes! Thankfully, they will reappear… at least for now.