ACLU NEWS

DISSENT IS PATRIOTIC

THE NEWSLETTER OF THE ACLU OF ***NORTHERN CALIFORNIA***

FALL 2019

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WHAT'S INSIDE

HISTORIC NEW USE OF FORCE LAW WILL SAVE LIVES

BY LESLIE FULBRIGHT

Police officers have the most significant power, the power to kill. On average, California police shoot and kill someone every two to three days. For years, civil rights organizations and families impacted by state violence have been searching for ways to change that. A significant victory came recently with a historic new law that updates the police use of force policy and will help hold officers accountable when they break it.

Assembly Bill 392: The California Act to Save Lives was authored by Assemblywoman Shirley Weber and signed by Gov. Gavin Newsom in August. The new law requires police officers to avoid using deadly force unless it's necessary to protect themselves or others from immediate harm. While this may seem like common sense, it's neither legally required nor the current practice in most places—until now.

The law, which goes into effect on Jan. 1, 2020, will be the toughest use of force standard in the nation.

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YOUR PERSONAL INFORMATION IS YOURS, NOT THE RAW MATERIAL FOR SURVEILLANCE TECHNOLOGY

BY JACOB SNOW

Nearly everything we do leaves a digital trace. From walking down the street with a mobile phone in our pocket, to browsing a website on a laptop, to tagging a friend in a photo on social media, almost everything we do results in information about us being collected and stored. And that information is being processed and used by companies for purposes that people are often not informed about and would never approve. Companies are misusing our information, but privacy means having the power to say no.

A recent report from NBC News revealed a troubling example of this invasive practice. A Silicon Valley-based company called Ever apparently used billions of private photos they collected from their users to secretly train a face surveillance tool marketed to the military and law enforcement.

Your private photos are yours and should not be the raw materials of surveillance technology.

This is an egregious violation of people's privacy. When companies collect people's personal information—like private photos—for one purpose, they should get permission from their users before they contort that data for an entirely different purpose.

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ACLU Northern California

THANK YOU FOR GENEROUSLY SUPPORTING THE ACLU AND FOR TAKING ACTION.

LETTER FROM EDITOR-IN-CHIEF CANDICE FRANCIS

We find ourselves in arguably the most precarious period regarding race in America since Jim Crow. The following reflection is a reminder that we must do whatever we can to mitigate the heinous outgrowth of a new pandemic of white supremacy. The center spread of this newsletter corrects some of the falsehoods that persist about American history and reveals the hidden history of slavery in California.

ACLU of Northern California Communications Director Candice Francis

Many years ago, I visited West Africa for an extended stay and had the opportunity to return to the U.S. on the Black Star Line, the Ghanaian government's now defunct shipping corporation that operated commercial freighters with a few modest cabins for civilian passengers. We embarked in the port city of Takoradi and made stops in Dakar, Senegal, and Abidjan, Côte d'Ivoire, to load cargo before setting sail across the Atlantic Ocean.

Midway through the crossing, we hit rough seas and inclement weather. The rip and roar of the sea and the slapping and clapping of waves against the ship as it heaved through rain and thunder was utterly terrifying. When the storm finally passed and calm seas returned, I went out on deck to survey the horizon. It was then that I had an epiphany that was simultaneously petrifying and inspiring.

Although I was profoundly aware that we were traversing the waters of the Middle Passage, that heinous voyage that transported millions of captive Africans to the Western hemisphere, it was an odd feeling to know that the waters that had threatened the ship hours before and held it afloat now were the same waters that had carried people of the African diaspora packed in the bowels of ships like canned sardines. I viscerally understood how an estimated 2.4 million people could have perished during this dehumanizing crossing, but it was the stark realization that despite all the blood, sweat, and tears shed along the way millions more actually survived. Although centuries removed, I bore witness on that ship to the plight of my people on whose shoulders I stand today, and it took my breath away.

In observation of the four centuries that have passed since the enslavement of people of African descent in the United States in 1619, the center spread of this issue of the *ACLU News* explores an under-reported slice of California's unique racial legacy—a legacy tarnished by the unlawful and inhumane treatment of black and indigenous people. "Gold Chains: The Hidden History of Slavery in California" is a public education campaign (**www.goldchainsca.org**) that gives new meaning to the phrase "all that glitters is not gold." Turn to page 6 to learn more.

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GOLD CHAINS

THE HIDDEN HISTORY OF SLAVERY IN CALIFORNIA

JOIN US AT **BILL OF RIGHTS DAY**

Sunday, December 8

Oakland Asian Cultural Center

388 9th St, Oakland, CA 94607 (three blocks from 12th St Bart Station)

Doors open at 10:30am
Program begins at 11am
Reception to follow at Tribune Tavern

WWW.ACLUNC.ORG/BoRD

ACLU FIGHTING IN THE SUPREME COURT AND ON CAPITOL HILL TO END LGBTQ EMPLOYMENT DISCRIMINATION

BY STAN YOGI

Nearly three-quarters of Americans believe that LGBTQ people should not be fired simply because of their sexual orientation or gender identity. But the Trump administration thinks differently. On Oct. 8, the U.S. Supreme Court heard two ACLU cases, in which we asked the court to validate our position that firing someone for being transgender or gay is unlawful sex discrimination under Title VII.

Courts across the country have agreed with us. The Trump administration, though, along with discriminatory employers, is trying to convince the high court to remove federal protections for transgender and LGBTQ people.

"No one should have to fear that they can be fired just because of who they are," said Elizabeth Gill, Senior Staff Attorney at the ACLU Foundation of Northern California, who is part of the legal team involved in the Stephens case. "But these employees, like countless other LGBTQ individuals, experienced the pain of discrimination."

Our client, Aimee Stephens, had worked for nearly six years as a well-regarded funeral director at R.G. and G.R. Harris Funeral Homes in Michigan. After she informed the funeral home's owner that she is a transgender woman, she was fired.

The ACLU helped Aimee file a complaint with the Equal Employment Opportunity Commission (EEOC), which eventually sued the funeral home for sex discrimination. Aimee's case worked its way through the judicial system. In March 2018, the Sixth U.S. Circuit Court of Appeals ruled that the funeral home unlawfully fired Aimee, violating Title VII's prohibition on sex discrimination.

The other plaintiff, Don Zarda, was a skydiving instructor employed by Altitude Express, a Long Island company. After Don mentioned to a customer that he was gay, and Altitude Express learned of his sexual orientation, he was fired. Tragically, Don died in a skydiving accident in 2014. But his surviving partner, Bill Moore, and Don's sister, Melissa, have continued the lawsuit on behalf of Don's estate. The Second U.S. Circuit Court of Appeals ruled in Don's case that sexual orientation discrimination is a form of unlawful sex discrimination under Title VII.

PHOTO BY LARRY BRYANT / ACLU-DC

ACLU Trans Justice Campaign Manager LaLa Holston-Zannell speaking at a rally outside the Supreme Court.

TITLE VII PROTECTS AGAINST SEX DISCRIMINATION

The ACLU argued to the Supreme Court that Title VII's prohibition against sex discrimination protects Aimee, Don, and other LGBTQ Americans. Title VII was designed to make "sex" irrelevant to employment decisions, ensuring that individuals are judged on their merits.

> "The Trump administration wrongfully is urging the U.S. Supreme Court to take away protections for LGBTQ people that impact every aspect of our lives... No one should have to fear that they can be fired just because of who they are."
>
> –Elizabeth Gill, senior staff attorney at the ACLU

For decades, federal law has protected workers like Aimee and Don from losing their jobs because they are lesbian, gay, bisexual, or transgender. The ACLU intends to keep it that way.

Aimee and Don's cases drew the support of nearly 50 organizations and individuals across the political spectrum and professional sectors that filed "friend of the court" briefs representing scholars, business leaders, unions, cities, states, professional groups, religious leaders, and members of Congress.

TRUMP TAKING US BACKWARD

The federal EEOC previously supported Aimee and Don's cases. But under Trump, the EEOC has changed positions. "The Trump administration wrongfully is urging the U.S. Supreme Court to take away protections for LGBTQ people that impact every aspect of our lives," Elizabeth Gill explained, "from employment and education, to housing and healthcare."

Rolling back protections for transgender people in Aimee's case could mean that anyone who is told they aren't "man" enough, "woman" enough, or otherwise fails to conform to gender-based expectations or assumptions, is at risk of discrimination.

NEED FOR MORE FEDERAL PROTECTIONS

Nearly two-thirds of lesbians and gay men report having experienced discrimination in their daily lives. The rates are even higher for transgender people and for all LGBTQ people of color. Regardless of how the Supreme Court rules in Aimee and Don's cases, Congress needs to provide broader protections for LGBTQ people.

That's why the ACLU and organizations across the country are advocating for passage of the Equality Act. This legislation would add to federal civil rights laws explicit prohibitions barring discrimination based on sexual orientation and gender identity.

With the Trump administration's relentless attacks on LGBTQ equality, the need to secure comprehensive federal protections for LGBTQ people nationwide is greater than ever.

The House has already passed the Equality Act. It's time for the Senate to act.

In the meantime, Aimee Stephens is taking a broad view of her fight. "My case is about so much more than me—or even transgender people," said Aimee. "It's about anyone who has ever been told they are not enough of a man or not the right kind of woman. It's about anyone who has ever experienced sex discrimination. It's about making sure the same thing doesn't happen to someone else."

Stan Yogi is a freelance writer for the ACLU of Northern California.

LEGAL UPDATES

BY TIM CLARK

EAST BAY SANCTUARY COVENANT V. BARR

COURT BLOCKS TRUMP ASYLUM LIMITS

A federal court in July blocked a new Trump administration asylum ban that categorically denied asylum to anyone at the southern border who had transited through a third country en route to the United States, with very limited exceptions.

The ACLU Foundation of Northern California joined the national ACLU in challenging the policy. U.S. District Judge Jon Tigar issued the ruling. "The court recognized, as it did with the first asylum ban, that the Trump administration was attempting an unlawful end run around asylum protections enacted by Congress," said national ACLU attorney Lee Gelernt.

However, the government sought and received a stay of the injunction from the U.S. Supreme Court. This means that the asylum ban is currently in effect.

UNITARIAN UNIVERSALIST CHURCH OF FRESNO V. ORTH

POLLING PLACE DROPPED OVER SIGN

Backing free speech, the ACLU Foundation of Northern California sued Fresno County's chief elections official in June for illegally removing a polling place at Unitarian Universalist Church of Fresno—for the sole reason that the church refused to cover up Black Lives Matter banners on the property.

Brandi Orth, Fresno County Clerk and Registrar of Voters, ordered the polling place moved to another church, claiming that the banners prevented Unitarian Universalist Church from being a "safe and neutral" voting site in the November 2018 elections.

"The records show that she took this illegal, retaliatory action based on a one person's racist complaints," said ACLU senior attorney Mollie Lee. "Local registrars are at the front lines of democracy and have a critical responsibility in conducting elections fairly."

The ACLU lawsuit seeks an order to prevent the registrar from disqualifying the church as a voting location based on its banner.

PANGEA LEGAL SERVICES V. ICE

ACCESS TO COUNSEL FOR NORTHERN CALIFORNIA ICE RAIDS

The ACLU Foundation of Northern California in July sought an injunction to bar U.S. Immigration and Customs Enforcement (ICE) from blocking Pangea Legal Services and other legal service providers meaningful access to people arrested in ICE sweeps.

The complaint, filed July 12, on the eve of announced major ICE raids, also asked a federal judge to prohibit ICE from processing people arrested in ICE raids until they can access legal counsel. Nonprofit Pangea provides legal services for deportation defense.

The action came after local federal immigration officials stated they would not grant pro bono attorneys access to clients and potential clients over the weekend. Legal service providers were also concerned that ICE routinely fails to inform newly arrested noncitizens that free legal help is available.

"Everyone has a constitutional right to a lawyer. Denying that is part of ICE's strategy for deporting as many people as quickly as possible—with absolutely no regard for their constitutional rights," said Sean Riordan, a senior staff attorney at the ACLU of Northern California.

SIGMA BETA XI V. RIVERSIDE COUNTY

HISTORIC SETTLEMENT IN SCHOOLS PROBATION CASE

A historic settlement was reached in July in a lawsuit against Riverside County's "voluntary" juvenile probation program, which operated in school districts across the county. The settlement will shut off the school-to-prison pipeline for many youth of color.

"This is a big step forward in re-envisioning a diversion program that supports and protects students instead of setting them up for failure," said ACLU-NC attorney Linnea Nelson. Riverside County agreed to groundbreaking measures for its unconstitutional Youth Accountability Team (YAT) program that previously brought youth into the juvenile justice system for normal low-level school misbehavior.

Under terms of the July settlement, which received preliminary federal court approval in August, the county will no longer enroll youths in the probation program for adolescent, non-criminal behavior such as talking back to school officials, truancy, or academic problems.

The class action lawsuit was filed in July 2018 by the American Civil Liberties Union Foundation and the ACLU Foundation of Northern California, among others. The suit was filed on behalf of students and the non-profit mentoring organization Sigma Beta Xi.

The settlement calls for youths accused of committing crimes to receive due process protections, including the appointment of a defense lawyer, at all stages of the program. The settlement also calls for probation programming to rely more on positive incentives and less on punitive conditions. It also stipulates better transparency and involvement of the youth and their family in the program.

"Everyone has a constitutional right to a lawyer.

Denying that is part of ICE's strategy for deporting as many people as quickly as possible—with absolutely no regard for their constitutional rights."

–Sean Riordan, senior staff attorney at the ACLU of Northern California

IVAN SANTOS CUEVAS V. MADERA COUNTY

UNDOCUMENTED IMMIGRANT UNLAWFULLY TRANSFERRED TO ICE, DEPORTED

The ACLU Foundation of Northern California filed a complaint and demand for restitution on June 27 with Madera County for illegally re-detaining and transferring former resident Ivan Santos Cuevas to U.S. Immigration and Customs Enforcement, which then deported him to Mexico.

CONTINUED ON NEXT PAGE

LEGAL UPDATES

CONTINUED FROM PREVIOUS PAGE

The Madera County Jail deputies' actions were a flagrant violation of the California Values Act, and just another example of a local law enforcement agency violating California's sanctuary law. The California Values Act prohibits alerting federal immigration agents of an individual's release date from county jail or transferring them unless they have been convicted of certain crimes.

Santos Cuevas, who lived in Madera with his family, was arrested on suspicion of DUI and booked into county jail. He had no prior criminal charges or convictions and should have been released within several hours. Instead, the jail held him 40 to 50 minutes past his scheduled release time so immigration agents could arrive and then transferred him into federal custody.

"Madera County broke state law when jail officials alerted federal immigration officials of Santos Cuevas's release time and transferred him, enabling them to gear up their cruel deportation machine," said Angélica Salceda, a staff attorney for the ACLU of Northern California.

ACLU SLAMS HUD PROPOSED HOUSING RULE

'ANOTHER FORM OF FAMILY SEPARATION'

The ACLU of California joined the national American Civil Liberties Union in a public comment in July strongly opposing the Department of Housing and Urban Development's (HUD) proposed rule change that will ban "mixed-status" families from living in public housing or Section 8 programs if at least one household member is undocumented or otherwise ineligible for housing benefits due to their immigration status.

The ACLU termed the proposed rule "another form of family separation," part of the Trump administration's sustained assault on immigrant rights.

HUD's proposed rule, released May 10, will also require over 9 million U.S. citizens and 120,000 elderly immigrants currently receiving assistance to produce proof of citizenship or immigration status. This rule will effectively evict tens of thousands of immigrant families.

"Access to stable housing is critical to the well-being of domestic violence survivors and their families," said Mollie Cueva-Dabroski and Linda Morris of the national ACLU staff. "HUD's new rule would erect greater obstacles to such access." HUD's proposed rule will jeopardize housing subsidies for millions of U.S. citizens by banning "mixed-status" families.

Based on HUD's own analysis, the new rule will threaten housing for 25,000 mixed-status families—including over 55,000 children who are U.S. citizens or green card holders.

Tim Clark is a volunteer writer for the ACLU of Northern California.

YOUR PERSONAL INFORMATION IS YOURS, NOT THE RAW MATERIAL FOR SURVEILLANCE TECHNOLOGY

CONTINUED FROM PAGE 1

So what happened here? Ever describes itself as "a company dedicated to helping you capture and rediscover your life's memories." Its website shows a photo album called "Weekend with Grandpa" depicting a young child playing outside. Ever's "free" and "unlimited" photo storage and sharing app, called Everalbum, offers to make "it easy to share your favorite memories with the people who matter most." Ever eventually accumulated billions of photos from millions of people into this "private" platform.

According to NBC News, Ever used these photos to create a face surveillance system that it markets to companies that want to "build a complete picture" of their customers, police who want to operate real-time face surveillance on video feeds or body cameras, and even the military. There's no indication that Ever clearly explained to its users that it would take the faces of people in their private photos to construct such a system.

This is a privacy violation for the artificial intelligence age.

Face surveillance poses a grave threat to civil rights, free speech, and the safety of communities of color, immigrants, and activists. Ever should have asked the people who created—in Ever's words—"one of the largest, most diverse, proprietary tagged datasets in the world" for permission to build a powerful piece of surveillance technology based on their private personal information.

Owning your personal information means deciding how it's used. Our favorite devices and services also collect sensitive and private information ripe for misuse. Mobile phones maintain a comprehensive record of our locations that could be sold to a bounty hunter or to a marketer or a hedge fund. Apps, watches, and fitness trackers know intimate details about our bodies. Websites track what we read, what we consider purchasing, and what we eventually buy. Almost everything about us can find its way into a database.

Without legal protections, companies can use our most private information for purposes that people would not expect or approve of. And companies that gather, repurpose, and monetize our personal information will not have—and do not deserve—our trust.

Without legal protections, companies can use our most private information for purposes that people would not expect or approve of. And companies that gather, repurpose, and monetize our personal information will not have—and do not deserve—our trust.

This was true in 1972, when here in California, voters added a right of privacy to the state constitution to prevent governments and businesses from "stockpiling unnecessary information about us and from misusing information gathered for one purpose in order to serve other purposes." But modern privacy laws have not kept pace with the new ways companies can misuse technology, even though voters overwhelmingly believe that companies need to do more to protect personal information.

Whether it's Facebook running psychological experiments on people, a company like Ever building a surveillance tool from billions of private photos, or menstrual-tracking apps being used to monitor employees, companies are exploiting our personal information, and it needs to stop. It's long past time to update our privacy laws for the 21st century to protect people from misuse of their personal information.

That's why, in the last year, the ACLU worked with a coalition of privacy, civil rights, racial justice, and economic justice organizations to introduce Privacy for All, a comprehensive bill to add strong privacy protections to California law. We also fought to stop technology companies and other industry efforts to weaken or eliminate the protections that exist under the California Consumer Privacy Act. We will continue that work, ensuring that the law—and people's rights—keep pace with technological change.

Jacob Snow is a Technology & Civil Liberties Attorney at the ACLU of Northern California.

GOLD CHAINS | THE HIDDEN H

There is a story we tell ourselves about being American. Much of it is a lie. Two dates that students throughout the country are required to memorize to inform an American identity are 1492, when Columbus supposedly "discovered" America, and 1776, when the United States claimed sovereignty from England and through the Declaration of Independence declared: "We hold these truths to be self-evident, that all men are created equal." If we're honest, we'll admit that the "all men" in that catchphrase didn't include African Americans, Native Americans, and women, and Columbus didn't discover anything. He got lost on a voyage to India and when he docked in the Caribbean and saw people, he called them Indians and proceeded to disavow them of their humanity. *Not* embedded in the American psyche as a date to remember is another equally seminal year, 1619, which commonly marks the inception of America's original sin—the 400th year since enslaved Africans arrived in Virginia and were sold to colonists beginning centuries of bondage and servitude.

In the period leading to this anniversary, several notable news outlets observed its significance on a national level. But closer to home, the ACLU of Northern California wanted to explore California's place in the nation's history of forced servitude, unpaid labor, and human degradation. The significance of this local history is undeniable. It has shaped California's complex racial character and planted the seeds of white supremacy that were sown in this country; seeds that bore ripe and poisoned fruit, the manifestation of which still exists today. In an effort to comprehensively explore this obscured racial history and the many legal battles it spawned, the ACLU of Northern California has launched a project entitled: **Gold Chains: The Hidden History of Slavery in California** (www.goldchainsca.org).

The mission of **Gold Chains** is to uncover California's hidden slavery history by lifting up the voices of courageous African American and Native American individuals who challenged their brutal treatment and demanded their civil rights, inspiring us with their ingenuity, resilience, and tenacity. We aim to expose the role of the courts, laws, and the tacit acceptance of white supremacy in sanctioning race-based violence and discrimination that continues into the present day. Through an unflinching examination of our collective past, we invite California to become truly aware and authentically enlightened.

Acceptance of this invitation requires humility and a strong disposition for hard truths. The bleak and brutal story of slavery in California pre-dates statehood with the incursion of Europeans in the 1700's who enslaved the Native population, seized land, raped women, infested tribes with disease, and force-fed Catholicism. California was designated a "free state" in the Compromise of 1850. The proverbial image of black people as chattel laboring in cotton fields stalked by an overseer gave way to a Pacific Coast version with similar conditions. Like "King Cotton," the commodity that drove the slave trade on the eastern seaboard, the Gold Rush era in California during the 1800s provoked the persistent dehumanization of black people, and simultaneously forced Native people off their remaining land, destroying their ecosystems for generations to come. These consequential historical markers are hidden from state lore and school curricula but offer concrete examples of California's complicity in racial tyranny. For instance, the state legislature passed the Fugitive Slave Law in 1852 that legalized the deportation of free or previously enslaved black people back to the south as slaves for seeking economic and personal freedom.

Through illustrative stories, testimony, and images, **Gold Chains: The Hidden History of Slavery in California** debunks California's unblemished brand as exclusively "liberal," "innovative" and "progressive," correcting it with facts of a history mired in racism, white supremacy, and violence. It also reinforces the integrated advocacy that the ACLU of Northern California practices daily. Our efforts to take on critical issues and sometimes unpopular positions in order to advance civil rights and civil liberties exemplifies our commitment to equal justice for all. Confronting the misdeeds of our collective past enables us to secure a more just future for generations to come.

The following vignettes are a few of the 16 essays and six audio stories that comprise the project. We hope you will be inspired to spread the word about it and share the website (www.goldchainsca.org) broadly.

PETER HARDEMAN BURNETT
WHITE SUPREMACIST IN CHIEF

California's first elected governor was a former slave owner. Peter Hardeman Burnett, originally from Tennessee, led a wagon train to Oregon where he sought to create a whites-only West Coast in 1843. Elected to the Oregon Legislature, Burnett succeeded in passing a law that excluded black people from the state. Whites who already "owned" slaves could keep them for three years, after which they would be freed and required to leave. Any black person who refused to leave was lawfully whipped as sanctioned by "Peter Burnett's Lash Law," an age-old form of violence committed against slaves. Burnett relocated to California in 1848 in search of gold. Once elected governor in 1849, he unsuccessfully tried to ban black people from the state. However, he did help fuel the enslavement and genocide of California's indigenous people by signing the perversely named Act for the Government and Protection of Indians, which enabled whites to force Native people from their lands into indentured servitude.

GEORGE GORDON
THE CRIME OF TESTIMONY LAWS

The case of George Gordon illuminates the pervasive racial injustice in the legal system in California during the early years of statehood. Gordon, a black barber, was beaten and shot to death by a white man in full view of witnesses at his shop in San Francisco. Robert Schell, the killer, stole money from Gordon's wife's hat shop the day before, but unbeknownst to him, she and her sister witnessed the theft and reported it to the police. Upon learning this, Schell confronted Gordon about the report and beat and then shot him dead. Multiple eyewitnesses to the shooting came forward, but the defense objected to them testifying, citing California law that banned black and Native people from testifying against white people in criminal or civil court proceedings. One eyewitness claimed that he was white, but the defense attorney insisted he was "Colored" and therefore could not legally testify.

ISTORY OF SLAVERY IN CALIFORNIA

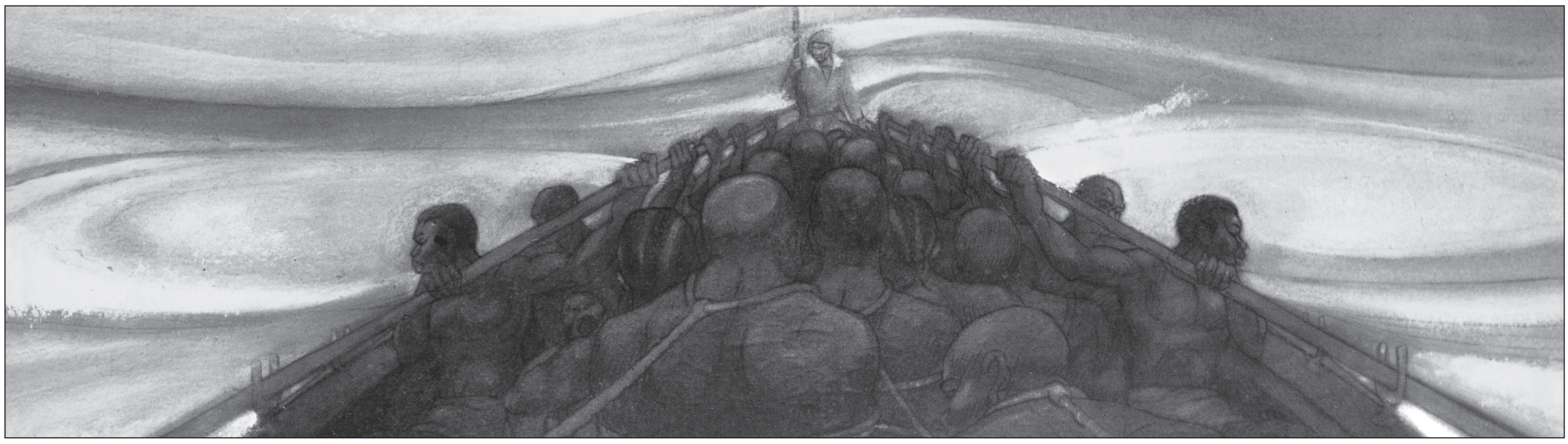

Illustration from The Middle Passage. Courtesy of the Tom Feeling Collection, LLC.

In order to determine the witness's race, the judge subjected him to a humiliating physical exam in open court. According to news reports at the time, court-appointed experts took him to another location where they examined parts of his body hidden by clothing and determined that he was not in fact white. Based on that, the judge refused to allow him to testify. Only because of the testimony of a white bystander, Schell was convicted of second-degree murder—not first—and served a mere two years in prison. The murder of George Gordon caused a public outcry and galvanized opposition to the testimony exclusion laws.

CARTER AND ROBERT PERKINS
THE DISGRACE OF FUGITIVE SLAVE LAWS

Carter and Robert Perkins and Sandy Jones were three formerly enslaved black men who launched a lucrative business in California's gold country until they were arrested under the Fugitive Slave Law and ordered deported back to Mississippi as slaves. The three men were brought to California in 1849 with their enslaver's son Charles Perkins and worked for him until he returned to the south. As part of an informal emancipation bargain, they were set free in 1851. They continued mining in Placer County and went into business for themselves carrying supplies across the goldfields, but in 1852 California legislators passed a fugitive slave law that allowed authorities to arrest people accused of being fugitive slaves and forcibly return them to bondage. Within a month of the law passing, Charles Perkins initiated legal action to reclaim his "property" in California. He wrote to a cousin who contacted law enforcement to help him capture the three men. They were taken to a Sacramento judge who approved their return to Mississippi.

The black people of Sacramento learned of the case and hired a white anti-slavery attorney, Cornelius Cole, to represent them. He filed suit demanding the men's release. The case eventually reached the California Supreme Court. It was the first test of California's fugitive slave law. The pro-slavery justices ruled the law did not violate the constitution and ordered the men shipped back to Mississippi. The three boarded a steamer heading south with Perkins. One unconfirmed report claimed the trio escaped from their captors while the ship was docked in Panama; however, their fate is unknown.

NATIVE AMERICAN
SLAVE MARKET IN LOS ANGELES

Today it's the site of a federal courthouse in Los Angeles. But in the mid-19th century, a stretch of Spring Street in downtown Los Angeles was a flourishing slave market. Native Californians were sold in auctions there from about 1850 to 1870—thanks to a state law nefariously called The Act for the Government and Protection of Indians. It made it legal for white people to enslave Native people on charges of "loitering" or public drinking. At the time, local ranchers and vineyard owners paid their Native Californian workers with alcohol. This practice in turn encouraged public intoxication. Local lawmen regularly conducted sweeps, arresting Native people.

On Mondays, employers seeking cheap labor came to the auction and paid the bail of men and women who had been arrested under the Act for the Government and Protection of Indians. He or she was forced to work until the debt was paid. The auctions reflect the widespread discrimination and violence against Native Californians, who could not become citizens, vote, or testify in court. Between 1850 and 1870, their population in Los Angeles fell from 3,693 to 219 people. Over the years, Native groups have protested for justice at the former auction site.

TOYPURINA
A FEARLESS MEDICINE WOMAN

A medicine woman of the Tongva nation, Toypurina helped lead a rebellion against missionaries who invaded her homeland and tried to assimilate the people and convert them to Catholicism.

Within a year of arriving, the missionaries seized land, beat people, and forced them to work in the field. They erected the San Gabriel Mission and tried to outlaw Native culture and assimilate the people into Catholicism. Toypurina watched as the mission drained her village and those around it. Disease brought by the Spanish ravaged her people, and desperation often brought natives to the mission door. Eventually, over 1,200 people in the area were baptized and subjected to Spanish rule. Toypurina hit her breaking point when the Spanish governor banned her people's traditional dance. She teamed up with Nicolás José, an Indian living inside the mission, and they hatched a plan to take over the mission and expel the Spanish. To build forces for the rebellion, she went from village to village organizing people. Through her effort, six villages decided to rise up in revolt to Spanish rule.

Sadly, the missionaries got wind of the plan, and ambushed Toypurina and the villagers on the night of the attack. The rebellion failed, and the leaders were imprisoned. Toypurina was locked away, and after a year and a half of imprisonment, she was exiled from her home and baptized as a Christian, living the rest of her days in Alta, California.

READ MORE AT
WWW.GOLDCHAINSCA.ORG

HISTORIC USE OF FORCE LAW CONTINUED FROM PAGE 1

California and many other states currently justify and give cover to police killings that are not necessary. AB 392 will change the way officers are trained and teach them to pursue non-deadly techniques.

Weber introduced the bill after Sacramento police killed 22-year-old Stephon Clark in 2018. The officers, who shot Clark in the backyard of his grandmother's home, said they mistook his cell phone for a gun. That killing prompted massive protests and discussion about the many men of color killed by police. Family members from throughout the state packed meetings about policing and racial bias.

Among them was Kori McCoy, whose brother Willie McCoy was killed by six Vallejo police officers. Police fired 55 rounds at Mr. McCoy in three-and-a-half seconds while he was sleeping in a car outside Taco Bell. His name joined the ever-growing list of black men unjustly and needlessly killed by police.

"Willie's case is a textbook example of where the new law can make a difference," said McCoy. "I hope that lawmakers across the country take notice and implement similar legislation. I am fed up with the harassment and violence perpetrated on our communities by police officers who are supposed to protect and serve. Policing is deeply rooted in race and racism. Police violence is a leading cause of death for black men in America."

The new law updates California's overly permissive use of force law to require that officers only use deadly force when "necessary." Previously, the standard was "reasonable." It clarifies that "necessary" means deadly force can only be used when necessary to defend human life. And it ensures that police are held accountable for their actions leading up to their use of deadly force. Police officers have many tools at their disposal, including verbal persuasion, moving out of harm's way or holding a suspect at a distance rather than rushing to confront them. De-escalation tactics can cool down and resolve situations peacefully.

Implementation should transform California from a state with one of the deadliest use of force laws in the country to a state with one of the strongest and most protective laws. For far too long, California has ignored the problem of police shootings, and the disproportionate killings of black and brown Californians. Officers should find peaceful resolutions and think more before they pull the trigger.

"This is an aggressive effort to retrain officers and change the culture of policing. It signals a shift in policing in California that we hope to see spread across the country," said Peter Bibring, director of police practices for the ACLU of California. "All Californians should feel safe, be treated with dignity and live free from state violence, no matter the color of our skin."Over 100 family members whose loved ones were killed by police advocated tirelessly for the new law. It was a hard-fought effort and was sponsored by the Youth Justice Coalition, United Domestic Workers—AFSCME Local 3930, STOP Coalition, PICO California, Communities United for Restorative Youth Justice, California Families United 4 Justice, Anti Police-Terror Project, ACLU of California, and the Alliance for Boys and Men of Color/PolicyLink.

Kori McCoy's brother Willie was killed by six Vallejo police officers, who fired 55 rounds in three-and-a-half seconds while he was sleeping in a car.

> "I hope that lawmakers across the country take notice and implement similar legislation. I am fed up with the harassment and violence perpetrated on our communities by police officers who are supposed to protect and serve."
> –Kori McCoy, whose brother was killed by police

> "No one law will fix all the challenges facing our law enforcement communities and our communities of color, but I am confident that AB 392 will by definition save lives."
> –Adrienna Wong, staff attorney at the ACLU of Southern California

"No one law will fix all the challenges facing our law enforcement communities and our communities of color, but I am confident that AB 392 will by definition save lives," said Adrienna Wong, a staff attorney with the ACLU of Southern California. "The incentives and the legal standards will discourage the kinds of confrontations that too often end in tragedy."

Studies show that officers at agencies with stricter use of force polices like Seattle and San Francisco have lower rates of killing members of the public without any negative impact on law enforcement or community safety.

Once the law goes into effect, departments across the state will have to revise their policies and training to ensure officers use deadly force less often and only when necessary. It will also make it easier to hold accountable officers who kill community members unnecessarily by firing them, or in some cases, criminally prosecuting them.

McCoy and his family watched a bystander's cell phone video and the police officer's body camera footage, and say the risky tactics escalated the situation that led to his brother's death.

"I wonder if this new law would have saved my brother's life," McCoy said. "Willie was about a month shy of his 21st birthday when he was killed. It saddens me to know that none of us will ever get to see what kind of man Willie would have been at 30, 40, or 50 years old. We do, however, have the opportunity to see what kind of state California can become."

This law comes after the California Legislature passed AB 953, a law to collect police stop data to address racial profiling, and SB 1421, a law to honor the public's right to know about and have access to police officer misconduct and use of force records.

Leslie Fulbright is a former Communications Strategist at the ACLU of Northern California.

DONOR PERSPECTIVE

Ruth Herring and Shernaz Boga, members of our development team, visited with longtime supporters Linda and Sandy Gallanter. The following are excerpts from their conversation.

THANK YOU FOR YOUR GENEROSITY TO THE ACLU OVER THREE DECADES. WHAT DREW YOU TO THE ORGANIZATION?

LINDA: Family values, cultural values, religious values that had to do with being a first-generation American. Both sides of my family were immigrants. Feeling the pride of being an American, having freedom and opportunity, had a lot of meaning to me. So when I worked and lived in Newark, New Jersey and the civil rights movement was becoming very active, I naturally gravitated to do things in the community that strengthened it in terms of civil liberties, in terms of children's futures. When we married and began raising a family together and moved to California, it was natural for us to stay with that.

SANDY: The ACLU is one of the prime defenders of the Bill of Rights and that's a full-time job that's never going to end. It's more or less serious depending on who is running the country, and right now it's very serious.

Longtime ACLU supporters Linda and Sandy Gallanter.

WHICH ISSUES ARE IMPORTANT TO YOU?

LINDA: It's so important to create change and make sure that opportunity is open to all. But American society when I grew up promised that and has not delivered yet. We feel obliged to help get out the vote and make sure everyone knows that they count. Women's issues are extremely important. The ACLU recently invited us to attend a court hearing in a reproductive health case, an excellent example of the work. I could see how knowledgeable and effective ACLU lawyers are.

> "It's important to educate the next generation about what it means to be philanthropic."
> –Linda Gallanter

SANDY: Anything that's going to make our society more equal, including addressing the problem of too much money in politics, is important. The rights of people of color are very important to me. I started working in the civil rights movement in the 1950s with the American Jewish Congress, on its commission on law and social action. The Congress was the leading civil rights organization in the Jewish community. I became involved in politics in Newark with the black community. The immigration situation concerns me. I am also first-generation American, and my family came here for the things we think are special about the United States. I want to keep and enhance all of those special things. What's going on now with immigration is just the opposite. The LGBT community is important to me because our daughter and daughter-in-law are part of that community. They help us deepen our understanding of their community, and Linda and I are grateful for the opportunity to learn.

HOW DO YOU VIEW YOUR ENGAGEMENT WITH THE ACLU?

LINDA: We want to sustain our engagement. The country is in dire straits, so it's even more important for us to step up, to encourage our friends to do more. The more people see the results of the ACLU's work, the more its future is firm. It's important to educate the next generation about what it means to be philanthropic. The tithing that Catholics experience, the 10 percent that the Jewish religion teaches, many groups know the importance of giving as part of everyday life. Sandy and I grew up knowing that. Tzedakah boxes are not charity boxes, they're obligation boxes. Obligation means you have to do this because you have an obligation to help the other. It's part of all our humanity, so I think the ACLU fits that very well. Our daughter and her wife really care about what they can do now that they are leaders for their own daughter. It's very exciting that we share with them opportunities and they do the same with us.

BOARD OF DIRECTORS ELECTION
VOTING INFORMATION

WHO CAN VOTE

The bylaws of the ACLU of Northern California call for directors to be elected by the membership. The label affixed to this issue of the *ACLU News* indicates on the top line if you are a current member and thus eligible to vote. Your label states "VOTE" if you are eligible to vote or "INELIGIBLE" if you are not eligible to vote.

If your label states that you are ineligible to vote, but you have recently renewed your membership, please send in your ballot with a note that includes your name and phone number, so we can verify your status. If you are ineligible because you have not renewed your membership but would like to do so at this time, please enclose your membership renewal check in the same envelope as your ballot. (Please note that it is your membership dues payable to the ACLU, not tax-deductible donations to the ACLU Foundation, that make you eligible to vote.)

HOW THE CANDIDATES WERE NOMINATED

As explained in the summer 2019 issue of the *ACLU News,* our bylaws specify two methods for nominating candidates for directorships. Candidates may be nominated by the current board of directors after the board considers recommendations from its nominating committee. Candidates may also be nominated by petition bearing the signatures of at least 15 of our members in good standing.

INSTRUCTIONS FOR VOTING

The candidates are listed in alphabetical order. We have 7 candidates running to fill 7 vacancies on our board of directors. You may vote for up to 7 candidates.

You cannot cast more than one vote for any candidate. That applies even if you vote for fewer than 7 candidates. If you share a joint membership with another member, each of you can vote for 7 candidates. Do so by using both of the two columns provided for that purpose.

After marking your ballot, clip it and enclose it in an envelope along with your address label (on the front of this newsletter), which is used to ensure voter eligibility.

ADDRESS THE ENVELOPE TO

BOARD ELECTION
ACLU of Northern California
39 Drumm Street
San Francisco, CA 94111

If you prefer that your ballot be confidential, put your ballot in one envelope, then insert that envelope plus your address label in a second envelope and send to the address indicated above. In that case, we will separate your envelopes before we count your ballot.

In order for your ballot to be counted, we must receive it at the address shown above by December 13, 2019.

As required by our bylaws, in order to have a quorum for our election, we need at least 100 timely returned ballots from our members.

To help you assess this year's candidates, we're including brief statements submitted by the candidates (see opposite page).

ACLU-NC BOARD OF DIRECTORS BALLOT

Please vote by marking one square next to each candidate you support.
You may vote for up to 7 candidates on this ballot.
If you share joint membership with another member, use both squares.

Ballots must be received by
December 13, 2019

Send this ballot with your address label on the reverse side to:

BOARD ELECTION
ACLU of Northern California
39 Drumm Street
San Francisco, CA 94111

☐	☐	JUSTIN BROWN
☐	☐	ROBERT A. FUENTES
☐	☐	DANIEL GALINDO
☐	☐	MATT MURRAY
☐	☐	KASSON STONE
☐	☐	MARIKO YOSHIHARA
☐	☐	ERICA FERNANDEZ ZAMORA

ACLU-NC BOARD STATEMENTS

JUSTIN BROWN: I truly believe in the ACLU's commitment to activism, specifically on behalf of minority groups. It is important to me that organizations like the ACLU not only exist, but thrive, and continue fighting against civil rights infringements. My work as a Certified Public Accountant has given me in-depth knowledge of non-profit finance, accounting software programs, annual external audits, financial statement presentation, and revenue recognition, all of which are critical to the ACLU-NC's financial health. If re-elected to the board, I would like to provide guidance and feedback in these areas and continue serving as the Chair of the Finance Committee.

ROBERT A. FUENTES: I would be honored to continue to serve on the board of the ACLU of Northern California. As a civil rights attorney, I am very much aware of the need for the ACLU's efforts to protect our rights, defend our liberties, and advance the needs of our most vulnerable. Born and raised in the Central Valley, I am very supportive of the ACLU's growth in this region of the state that desperately needs it. I am committed to continuing to work with fellow board members to promote the mission of the ACLU-NC to advance the civil liberties of all Californians.

DANIEL GALINDO: I have served the ACLU as a Community Organizer, Paralegal, Program Associate, and Consultant. It would be a great privilege to now serve on the organization's Board of Directors. I currently serve on the Board of Bay Area Lawyers for Individual Freedom where I advocate for an intersectional approach to diversity and inclusion in the LGBT legal community and chair the Conference of California Bar Associations Committee. As a plaintiffs' employment lawyer, I approach my practice with a firm belief that the meaningful exercise of Constitutional rights requires strong protections for workers and economic justice and equity.

MATT MURRAY: I'd be honored to continue my service on the ACLU-NC Board. I've been a member of the Legal Committee since 2012 and involved with the ACLU-NC since co-founding an ACLU student group at UC Berkeley almost two decades ago. I've committed my legal career to representing unions, low-income workers, and others enforcing state and federal workplace and civil rights. The ACLU's commitment to pressing for social justice through litigation, legislation, and public advocacy makes it a vital defender of our most cherished liberties in these difficult times. It's a privilege to be able to contribute to this important work.

KASSON STONE: I am delighted to be nominated for the ACLU-NC Board. Currently a member of the Foundation Board and Chair of the Development Committee, I believe most strongly in supporting the integrity of the ACLU-NC: not just the impact and quality of our advocacy, litigation, organizing, and legislative work, but in how we do it--thoughtfully, deliberately, and in collaboration with our coalition partners. We fight for civil rights and liberties because they enshrine our most basic notions of justice, equality, and dignity. In these turbulent times, I want to ensure the ACLU-NC has the structure and resources to honor those causes.

MARIKO YOSHIHARA: I have always revered the ACLU as one of the most powerful forces protecting individuals' civil rights and civil liberties. It would be a privilege to serve on the ACLU-NC board and support this important work at such a critical time in our nation's history. As an employment lawyer that has been fighting for workers' rights and equality in the workplace for over a decade, I am deeply committed to social justice work. I also come from a family of immigrants and would love to further support ACLU-NC's efforts to keep immigrant families together and protect their rights.

ERICA FERNANDEZ ZAMORA: I am honored to be nominated to the ACLU-NC Board. It will be a privilege for me to use my professional and life experiences to fulfill the commitment to the preservation of civil liberties and vigorous enforcement of the U.S. Constitution now more than ever. I have dedicated most of my life to protecting our rights as an advocate, as an activist, and as an organizer, I can't wait to do it alongside other dedicated board members.

PLEASE SEE THE OPPOSITE PAGE FOR INFORMATION ON HOW TO VOTE IN THIS BOARD ELECTION.

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Join our email list to stay informed about current issues and campaigns, upcoming events, and opportunities to get more involved in the fight to protect and expand civil liberties.

Subscribe to our email action list at ACLUNC.ORG/EMAIL

LETTER FROM THE EXECUTIVE DIRECTOR

The word of the day is gratitude. Amidst the daily assault on our rights emanating from the Trump administration, I want to take a moment to express my gratitude.

First, I want to express my gratitude to you, as an ACLU member. Your support of the ACLU is what makes everything we do—what you read about in this newsletter or hear in the news—possible.

Even more than that, I have gratitude for the way you engage. Our members are taking action in so many ways, directly with the ACLU by signing petitions, calling lawmakers, attending rallies, and by supporting other organizations in our communities and our country whose work is also vital to our success.

Second, I want to express my gratitude to the staff of the ACLU of Northern California and the wider ACLU. They get tired, but they are tireless. They are real experts, but they work with real humility. They tackle problems that seem intractable, and move them toward solutions.

Third, I want to express my gratitude to our partners, and in particular to the people who are most directly impacted by the issues with whom we have the honor of doing this work. In this issue, the lead story focuses on the campaign to pass AB 392. That campaign was only successful because of the powerful engagement of dozens of families who had lost loved ones to police violence and who were willing to share their stories and their voice to make a difference.

I hope you see this letter that is a cascade of gratitude. The gratitude begins with you, whose support and engagement makes possible the work of our staff, who in turn partner with courageous leaders in our communities, and bring bold policy change to lawmakers who help us make them reality.

The significance is that it takes a great deal of courage —after the loss of a loved one at the hands of government and the treatment by the legal system that follows—to step forward to use another part of the legal system, the legislative process, to effect change. Yet they step forward to try to use a different part of the legal system, the legislative process, to effect change.

Which brings me to gratitude for our legislative champions in California. Each of the bills below was possible because of legislative champions who carried the bills, legislative leaders who championed them, and Gov. Newsom who signed them into law.

PHOTO BY BETHANIE HINES

ACLU of Northern California
Executive Director Abdi Soltani

I hope you see this letter as a cascade of gratitude. The gratitude begins with you, whose support and engagement makes possible the work of our staff, who in turn partner with courageous leaders in our communities, and bring bold policy change to lawmakers who help us make them reality. The negativity right now is extremely toxic and takes a lot of the oxygen, let's breathe in and out some gratitude.

Abdi Soltani
Executive Director, ACLU of Northern California

GOV. NEWSOM SIGNS KEY ACLU OF CALIFORNIA BILLS

✓ **SIGNED AB 392 (WEBER): POLICE USE OF FORCE**
AB 392 establishes one of the strongest police use of force laws in the country by requiring that officers use deadly force only when absolutely necessary to protect themselves or others from immediate harm.

✓ **SIGNED SB 72 (UMBERG): ELECTION DAY REGISTRATION**
SB 72 ensures that every eligible voter can cast a ballot on Election Day by allowing Californians to register to vote at all polling sites in the state.

✓ **SIGNED SB 24 (LEYVA): ABORTION ACCESS ON PUBLIC UNIVERSITY CAMPUSES** SB 24 makes California the first state in the country to make medication abortion available at all public university student health centers.

✓ **SIGNED AB 45 (STONE): COPAYS FOR HEALTHCARE IN JAILS & PRISONS** AB 45 abolishes medical and dental copays, which pose harmful barriers to healthcare access, in California prisons and county jails. California will be the first state to eliminate copays in county jails.

✓ **SIGNED AB 1215 (TING): FACIAL RECOGNITION & POLICE BODY CAMERAS** AB 1215 prevents police body cameras from being exploited for mass surveillance of the public by prohibiting law enforcement agencies from using facial recognition and other biometric tracking technology in connection with body cams through 2022.

✓ **SIGNED SB 136 (WEINER): 1-YR SENTENCE ENHANCEMENT**
SB 136 fights mass incarceration by dismantling a cruel, costly, and ineffective sentence enhancement that adds an extra year to an individual's base sentence for each prior prison or felony jail term they already served.

✓ **SIGNED AB 1600 (KALRA): PITCHESS REFORM**
AB 1600 improves fairness in criminal cases by updating the currently slow and cumbersome procedures by which a criminal defense attorney gets access to relevant information about past misconduct by the law enforcement officers involved in a case.

✓ **SIGNED SB 310 (SKINNER): JURY SERVICE**
SB 310 promotes racial justice, civic engagement, and fairness and legitimacy in California's jury system by expanding the pool of eligible jurors and allowing people with prior felony convictions to serve on juries.