

ACLU Prompts Investigation into Secretive Fusion Center

The 2009 Virginia Terrorism Threat Assessment report was unknown to almost everyone until the ACLU found it posted on an obscure website several months ago. Produced by the Virginia Fusion Center, the report uses crude racial and demographic generalizations and casual, unsubstantiated observations from untrained persons to locate purported hot beds of terrorist activity throughout the state.

Concerned that the report would be used by local and state law enforcement to launch investigations into the private, legal activities of Virginia citizens, the ACLU of Virginia directed the press and government officials to the report and dared them to read it. Soon thereafter, most Virginia news sources had produced stories on the Fusion Center, and many wrote editorials or published our op-ed demanding an investigation. Governor Tim Kaine then announced he would be conducting a thorough review of the Fusion Center.

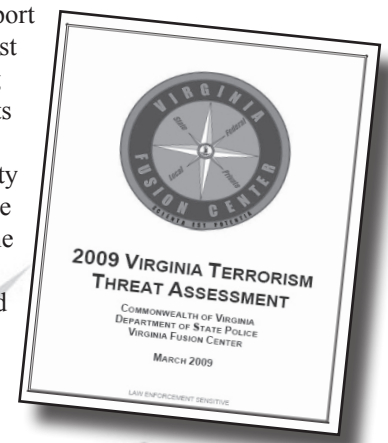
The ACLU has been skeptical of fusion centers since they started cropping up around the country a few years ago. Virginia's center is one of about 70, and like the others it is funded by the state but operates in virtual secrecy and with almost no oversight from the public or government officials.

According to the report, Hampton Roads is a terrorist "radicalization node" because of the juxtaposition of a diverse military population, two historically black colleges and Regent

University. Richmond law enforcement officials are warned of the potential for "race-based extremist groups," not because such groups have been identified, but because the city was the Capital of the Confederacy and has a large minority population.

Colleges in particular are determined to be breeding grounds for extremism. Many colleges are named -- William and Mary and VMI harbor anarchist extremists, for example -- and many are identifiable by location.

In its 215 pages, the report identifies more than 50 terrorist or extremist groups operating in Virginia, from animal rights advocates, to anti-abortion activists, to numerous minority religious organizations. There are numerous references in the report to individuals taking photographs from bridges and of government buildings. It also claims there were more than 400 encounters with al-Qa'ida in Virginia in 2007.



The Virginia 2009 Terrorism Threat Assessment can be found at <http://cryptome.org/cryptomb25.htm>.

ACLU Promises Lawsuit if Jurors Become Anonymous

The ACLU has threatened to file a lawsuit challenging a proposed rule of the Virginia Supreme Court that would make jurors anonymous in every criminal trial.

The rule follows a 2008 state law permitting courts to protect the identities of jurors when there is a finding of a likelihood of bribery, tampering, injury or harassment. But the new law also directed the Virginia Supreme Court to issue rules for implementing it, and that's where the trouble began. A committee of the Supreme Court has now turned the law on its head by recommending that all jurors remain anonymous in all criminal trials.

The ACLU did not oppose the 2008 bill, but believes the proposed rule is unconstitutional. The 'Star Chamber' proposal from the Advisory Committee undermines the fundamental principle that justice is best served when courts are open to public scrutiny. It is also contrary to a Fourth Circuit Court of Appeals case requiring that jurors' names and addresses be public, except in limited circumstances. If adopted, Virginia would be the only state in the nation with such a rule.

ACLU Challenges Prince William Ordinance Targeting Latinos

The ACLU is again challenging the constitutionality of a Prince William County loitering ordinance that has been used to harass individuals based on their nationality. In the current case, a group of Latino men were standing on a public sidewalk outside an apartment complex in Manassas when they were approached by police officers, who requested identification from each person. Non-residents of the complex were charged with trespassing, and residents were charged with loitering.

Under the Prince William ordinance, it is unlawful to loiter "under circumstances which justify a reasonable suspicion that such a person may be engaged in, or is about to engage in, a crime, or with the purpose of begging." Lawyers for the ACLU will go to court to argue that the ordinance is unconstitutionally vague, violates the right to peaceably assemble, and has been used to harass persons based on their national origin.

In 2005, the ACLU successfully represented ten Latino men who were arrested in Woodbridge under the same ordinance. In that case, prosecutors voluntarily dismissed the charges after the ACLU filed papers challenging the loitering ordinance.

From the Director

Voter Restoration Reform is Overdue: We've Got a Plan!

Several months ago, at a forum in Richmond featuring the three Democratic Party gubernatorial hopefuls, an audience member asked the candidates for their views on Virginia's felon disfranchisement law. Each responded that reform of the antiquated law was an important part of his platform and that if elected Governor he would push for automatic restoration of voting rights for felons after they have completed their sentences.

This exchange was significant for two reasons. First, in the past no one would have asked about restoration of rights during a political campaign in Virginia, as it was simply not something on voters' minds. Second, the responses show a dramatic shift in Virginia's political winds. No candidate for public office in memory, including Virginia's last four governors, George Allen, Jim Gilmore, Mark Warner or Tim Kaine, or their campaign opponents, supported automatic restoration of voting rights.

An important factor in bringing about this change of attitude is our Virginia Voter Restoration Project. Since March 2008, VVRP has overseen a comprehensive program to educate the public about the effects of voter disfranchisement in Virginia, provide services to individuals seeking to have their rights restored, and press for reforms in the Virginia General Assembly.

Everything has gone according to plan except in the legislature. There the Senate easily passed a reform bill, but it failed in a House committee on a narrow 12-10 vote.

Virginia is the nation's felon disfranchisement bottom feeder. In fact, we and Kentucky are the only two states that permanently disfranchise all felons, requiring something akin to a gubernatorial pardon to have voting rights restored.



Our legislators know the law is counterproductive, since former felons who vote are less likely to commit a crime. They know it is the last vestige of Jim Crow in Virginia, instituted along with poll taxes and literacy tests to prevent minorities from voting. They also know it is unfair that 300,000 Virginia citizens are excluded from the democratic process even though they have repaid their debt to society.

We're trying to do something about this shameful situation and want our members to help. If you are interested in learning more about what you can do, please visit the Virginia Voter Restoration Project website at www.restoreourvote.org.

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ACLU of Virginia

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Virginia Liberties

Published by the ACLU of Virginia

530 East Main Street, Suite 310, Richmond, VA 23219

(804) 644-8022, acluva@acluva.org, www.acluva.org

Interested in Serving on the Board?

Would you like to be part of the dynamic group of people who govern and direct the Virginia affiliate of the ACLU? Members of the ACLU of Virginia Board of Directors serve three-year terms and are voted in by the membership. If you would like to be considered for nomination, you must be a member in good standing and submit a brief statement of interest addressed to the Chair, ACLU of Virginia Nominating Committee. You may also be nominated by a petition signed by five members of the ACLU of Virginia, along with a statement of interest. Mail submissions by March 15, 2010 to the main office address in Richmond or email acluva@acluva.org.

For more information, contact Executive Director Kent Willis at (804) 644-8022 or the email address listed above.

~Support The ACLU Foundation~

I would like to support the public education and litigation work of the ACLU Foundation of Virginia. Please find enclosed my tax-deductible donation of \$_____.

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Or visit us online at www.acluva.org and click "Donate Now."

ACLU of Virginia Legal Action

In Brief...

HHS Turns Over Documents on Reproductive Rights of Undocumented Immigrant Teens

We filed a Freedom of Information Act lawsuit in November 2008, forcing the U.S. Department of Health and Human Services to release documents pertaining to its policies prohibiting undocumented minors in government custody from obtaining abortions and other reproductive health care services. The case was settled in May when HHS handed over virtually all the requested documents.

Albemarle Blogger's Speech Rights Intact

Albemarle County blogger Waldo Jaquith will not have to give up his notes or the names of individuals who posted comments to his site about a defamation lawsuit filed by Hollywood publicist Thomas Garrett against *The Hook*, a weekly Charlottesville magazine. Garrett withdrew his suit against *The Hook* making the subpoena of Jaquith's materials unnecessary. We were prepared to argue that bloggers have the same First Amendment rights as traditional journalists.

ACLU to Appeal Dismissal of Lawsuit Challenging Secrecy Provisions of False Claims Act

We will appeal a federal court's dismissal of our lawsuit challenging the over-reaching secrecy provisions of the False Claims Act, under which private citizens are entitled to bring complaints of fraud on behalf of the government. Our lawsuit charges that the secrecy provisions of the law -- which gags plaintiffs and requires complaints be filed under seal -- prevent the public from learning about ongoing threats to public health and safety.

Court Says Privacy Advocate Can Post Public Records on Website

Under a federal court ruling in June, privacy advocate B.J. Ostergren may post on her website the Social Security Numbers of Virginia legislators and other government officials, despite a 2008 state law that prohibits dissemination of such information. Ostergren posts the records, which she obtains from publicly-accessible government websites, to demonstrate to legislators how easy it is to steal private information from public records.

ACLU Wins (again) in Same-Sex Custody Case

In June, the Virginia Court of Appeals thwarted the latest attempt by Lisa Miller to avoid complying with Vermont orders requiring her to grant child visitation to her former partner, Janet Jenkins, who is represented by the ACLU. Two previous opinions from the Court of Appeals and one from the Virginia Supreme Court recognized that Vermont, not Virginia, has jurisdiction over the dispute, and that Virginia must enforce the Vermont court's orders. Later, in August, a Winchester court found Miller to be in contempt for not allowing Janet and the child to visit.

Jail Ends Religious Censorship

Under pressure from the ACLU, officials at the Rappahannock Regional Jail agreed to end their censorship of religious materials sent to detainees. Inmates will now be allowed to receive and keep religious materials sent from outside so long as they do not contain anything pornographic or a threat to jail security.

Anna Williams had contacted the ACLU after discovering that the jail was literally cutting religious passages from letters she sent to her son. All that remained of one three-page letter she sent was the salutation, the first paragraph, and "Love, Mom." The ACLU informed jail administrators that the jail's policies were in violation of the First Amendment and the Religious Land Use and Institutionalized Persons Act, a federal statute that protects freedom of religion in jails and prisons.

The ACLU was joined in this effort by the Virginia Interfaith Center for Public Policy, The Rutherford Institute, Prison Fellowship, Friends Committee on National Legislation, and the Becket Fund for Religious Liberty.

ACLU Supports Gloucester Petitioners

The ACLU has agreed to file a legal brief on behalf of 40 Gloucester voters who were fined \$80,000 after a court rejected their attempt to remove four members of the Board of Supervisors from office under a rarely used Virginia law. The case was thrown out on a technicality after minor flaws were discovered in the design of the petition used to collect the requisite number of signatures from voters.

Concerned that such onerous fines would chill access to the courts, the ACLU offered to assist the petitioners with the appeal of the fine and lobbied the Virginia General Assembly to place limitations on fines in such cases. In July, a new law took effect that allows cases such as these to proceed despite minor technical mistakes made by petitioners and that prohibits judges from imposing court costs and other sanctions on petitioners. The new law, however, is not retroactive, so we continue to provide legal assistance to the Gloucester petitioners.

Video Protects TV Protestor's Free Speech

After local media outlets expressed their disapproval and the ACLU publicly offered to provide legal representation, a Roanoke judge dismissed charges against a Hollins University student who was arrested for participating in a demonstration criticizing the nation's obsession with watching television. The May 14 protest, entitled "Must See TV," involved about 60 individuals taking television sets to a central plaza in the city's downtown area, and staring blankly at the screens. Ironically, it was a video of the arrest that provided the exonerating information. No witnesses were necessary, no "he-said, she-said" testimony, just a video showing the harassment and arrest of a quiet, unobtrusive demonstrator by local police. Although we had agreed to represent the student in a civil suit, this was a situation in which the ACLU's mere presence led to a quick resolution.

Around Virginia

Supporters Cheer for ACLU in *American Violet*

Looking for your next pick for movie night and want to root for the ACLU? Then look no further than *American Violet*, an emotionally charged film about an ACLU case challenging racially motivated drug raids in a small Texas town.

In April, more than 200 ACLU supporters packed the E Street Cinema in Washington, D.C. to watch a special preview screening of the film, which elicited loud cheers from the audience at its conclusion. The screening was followed by an audience Q&A with Graham Boyd, Director of the ACLU Drug Law Reform Project, Regina Kelly, the young African-American woman who stood up and fought the race-based drug raids in her hometown, and Bill Haney, the film's director and producer.

The film was also well received this summer during a special one-time screening at Naro Cinemas in Norfolk. There, Jennifer Bellamy, Legislative Counsel with the ACLU's Washington Legislative Office, led the post-film discussion.

"American Violet" stars newcomer Nicole Beharie, Tim Blake Nelson (*O Brother, Where Art Thou?*, *Syriana*, *Minority Report*), Will Patton (*Remember the Titans*, *The Spitfire Grill*), Michael O'Keefe and Xzibit. To watch the trailer or learn more, visit <http://www.americaviolet.com>. *American Violet* comes out on DVD on October 13. If you would like to show the film, please contact Elizabeth Wong at (804) 644-8022 or acluva@acluva.org.



Student Chapters Recruiting on Campus

Our student chapters have kicked off the fall semester by tabling at activities fairs and planning events for the upcoming school year. But as always, they are looking for new members who are willing to help organize campus activities that promote civil liberties and civil rights.

If you are interested in joining one of our existing student chapters (listed below), please contact Elizabeth Wong at (804) 644-8022 or acluva@acluva.org.

Current ACLU Campus Chapters:

Christopher Newport University
George Mason University School of Law
University of Virginia
University of Virginia School of Law
Virginia Tech
William and Mary
William and Mary School of Law

Interested in Starting a New Chapter?

If your school is not listed above and you would like to start a chapter on your campus, we'll tell you how! Contact Elizabeth Wong at acluva@acluva.org or (804) 644-8022.

Election Protection News

Yes! The ACLU Election Day Hotline & Voting Rights Cards Are Back

Once again, the ACLU of Virginia will operate an Election Day Hotline. Call (804) 644-8080 if you have problems at the polls or have voting-related questions. We will also be distributing voter empowerment cards that inform voters of their rights and answer common questions voters may have. If you would like copies of the cards to distribute to your club or community group, please contact Elizabeth Wong at acluva@acluva.org or (804) 644-8022.

Yes! Students May Register to Vote Where They Attend College

The State Board of Elections has adopted guidelines on residency requirements for voter registration that protect the right of students to register to vote in the locality where they attend school. Although the new guidelines fall short of what the ACLU sought, they do make it clear that a student who wishes to register to vote locally "does not need specific intent to stay in the college jurisdiction beyond graduation" and that applications can't be denied because a student lives in a dorm.

In the past the ACLU of Virginia has filed lawsuits on behalf of students who were denied the right to register to vote in the jurisdiction where they were attending college. Students who encounter such a problem should immediately contact Legal Director Rebecca Glenberg at (804) 644-8022 or acluva@acluva.org.


Yes! Voters May Wear Political Campaign Apparel to the Polls

As a result of an ACLU lawsuit and a new law passed by the General Assembly, Virginia's voters may wear buttons, stickers, and even articles of clothing containing political messages and campaign slogans when they go to the polls.

On the eve of the Presidential Elections last year, the State Board of Elections adopted guidelines that prohibited political apparel at the polls. Under the guidelines, those who refused to remove their political apparel could be criminally prosecuted (class 1 misdemeanor punishable by up to one year in jail and a fine of up to \$2,500). The ACLU of Virginia filed a lawsuit challenging the policy in December, but agreed to drop the case after the General Assembly passed the new law.

*American Civil Liberties Union of Virginia
550 East Main Street, Suite 310
Richmond, VA 23219*

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Become a Grassroots Lobbyist!

Help us defend civil liberties at the Virginia General Assembly by joining our grassroots lobbying program! We'll update you about bills and send you action alerts that provide you with the ACLU's position and talking points to use in communications with elected officials.

Letters, phone calls, and emails from voters have a significant impact on the actions of legislators. Sign up today by visiting our website, www.acluva.org, and help us protect our fundamental rights!

Get Your ACLU E-News!

If you'd like to know what we're doing throughout the year, then sign up for E-News. As a subscriber, you will receive about one email update a week on lawsuits and other actions by the ACLU of Virginia, as they happen. On occasion, we'll also send you TV alerts, information on upcoming events in your area, and important national news. Subscribe today at www.acluva.org.

You're Invited!

Northern Virginia Chapter of the ACLU
Annual Legislative Brunch

Sunday, February 7, 1:00-3:30 p.m.

Ernst Cultural Center

Northern Virginia Community College
8333 Little River Turnpike, Annandale

**“Civil Liberties and the
2010 General Assembly”**

Hope R. Amezcua

ACLU of Virginia Legislative Counsel

Q&A to follow

Brunch at 1:00 p.m. Program starts at 2:00p.m. The Northern Virginia Chapter would like to know if you'll be attending. To RSVP or for more information, call (703) 360-1096 or send an email to novachapter@acluva.org.