

# HUMAN RIGHTS NOW!

Newsletter of the  
*Meiklejohn Civil Liberties Institute*



December 2017

## The Mobilization of Shame

Using Shame to Bring About Local Human Rights Action: Why reporting matters and the way reporting functions

by Ann Fagan Ginger

One of the largest obstacles that the United Nations faces in achieving total compliance from its member nations to international human rights law has its roots in Article 2 Section 7 of the Universal Declaration of Human Rights, which is essentially a loophole clause that excuses a nation from its obligation to prevent and prosecute human rights abuses through claims of “domestic sovereignty”—a nation’s belief that its national law is the “supreme law of the land” and that it is thus not obligated to obey any other law, including international law.

So, how can international human rights law achieve human rights practice at a local level?

Nations are not eager to submit to international law, for a number of reasons (wariness of obligating themselves to a higher international legal system, inconvenience, etc.), so the possibility that law can bring about human rights remedies has been limited in the past and in the present.

Fortunately, the national government is not the only actor in the international human rights system, and if the government refuses to act, then “shame” can be mobilized through monitoring and reporting mechanisms to influence non-governmental actors, like non-governmental and not-for-profit organizations that specialize in relevant social justice issues, as well as the public at large. “Shame,” which has been defined as using moral condemnation of a perpetrating social actor to compel that actor to provide remedy to a human rights violation outside formal legal

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**Human Rights Now! / December 2017**

## The City of Berkeley’s Attack on the Homeless

by Steven DeCaprio

On Saturday, October 21, 2017 the homeless encampment at a public art installation near the border of the City of Oakland at the intersection of Martin Luther King Jr. Way and Adeline Avenue in Berkeley, California received a 72-hour notice to vacate under threat of arrest.

The encampment had been established by the landless movement called First They Came for the Homeless (FTCfH), which had already been removed at least a dozen times from previous locations throughout Berkeley since 2015 under threats of arrest. These evictions further traumatized these landless people who had set up encampments as the only means available to create a semblance of shelter from the elements. The threats of violence, incarceration, and destruction of their

possessions by law enforcement as they had been repeatedly expelled into the streets increased deprivation of basic necessities and thus compounded the trauma of their homelessness.

This ongoing oppression by the City of Berkeley hit close to

home. In 2000 I had become homeless, and in 2004 I sought shelter in an abandoned house in Berkeley that was two blocks away from where a HERE/THERE sign was eventually built.

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MCLI Human Rights Forum on Racism on 10/16/17  
From L. to R.: Jamey Williams, Mollie Costello, Ann Fagan Ginger,  
Steven DeCaprio  
Photo by Adam Garrett-Clark

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## MCLI Holds Human Rights Forum on Racism

By Steven DeCaprio

On October 16, 2017 the Meiklejohn Civil Liberties Institute (MCLI) reached out to the community to ensure that all forms of racism by the federal, state, and local governments in the U.S. are included in a report to be submitted by MCLI and allies working in communities experiencing racism at the hands of the government. November 20, 2017 was the deadline for the United States Government to submit a report to the U.N. Committee on the Elimination of Racial Discrimination (CERD), and MCLI intends to submit a shadow report based upon community input.

Jamey Williams and Mollie Costello with the Alan Blueford Center for Justice and Steven DeCaprio with Land Action partnered with MCLI to organize this forum. With their assistance MCLI is working to expand its network of community based allies to ensure that their reports facilitate social movements having access to international human rights committees.

Ann Fagan Ginger and Walter Riley with MCLI addressed the audience prior to audience members telling their stories about racial oppression.

One attendee spoke about the failure of the U.S. government to provide adequate education to black children. He detailed the ways in which the current education system places black children on different educational pathways that hinder their ability to succeed.

Others in attendance spoke about many forms of police, court, and prison oppression ranging from the theft of property, sexual assault, abuse of individuals with disabilities, and ensuring recidivism by failure to provide adequate programs.

Another attendee discussed how Latines are profiled by law enforcement based on assumptions of immigration status including family members who are born in the United States.

MCLI will be holding another Human Rights Forum on Racism on Thursday, January 18, 2018 at 6:30 pm at the GROW Incubator, 909 7th St, Oakland, CA 94607. For more information see the announcement on page 7.



## The Killer of Alan Blueford Strikes Again

By JP Massar

In 2012 an official investigation revealed that Officer Miguel Masso, a minute or so before he fatally shot Alan Blueford, "went into auto pilot and could no longer hear."

Prior to that he was sued, in part, for this:

"Officer Gottlieb, Police Officer Vanhorn, Police Officer Reveron and Police Officer Masso entered his holding cell. They commenced to assault and batter the plaintiff, with physical and electronic force, which was totally unjustified... Plaintiff was repeatedly struck by Tasers... causing his back to sustain severe burn marks and permanent scarring, along with neurological, psychological and other personal injuries..."

Would you hire this man who shot himself in the foot as he killed 18-year old Alan Blueford on the streets of Oakland, CA on the night of May 6th, 2012? Whose body camera mysteriously turned off as he chased Blueford through a street party? Who sources claimed had admitted in deposition during civil suit questioning that he had PTSD from his tour of duty in Iraq? The Hollister Police department did, and because of that decision a Hollister man felt that he barely escaped with his life.

On January 28th, 2017, at about 10:30 PM, Earl Malanado, a 50-year old mechanic, and his wife were followed by Officer Masso for about a mile without lights or siren before Masso pulled Malanado over for expired registration and not having proof of insurance.

According to Malanado, Masso opened the car door and, as Earl exited, the officer grabbed him, yanking him out of the car. Masso then proceeded to drag him to the rear of the car, screaming at him and smashing him to the ground. Pushing Earl's face into the dirt and pressing on the back of his knees, Earl was having difficulty breathing, while Masso continued shouting incoherently, occasionally saying "Stop Resisting!" despite Earl doing what he could to cooperate—in fear of his life.

Fortunately for Mr. Malanado, the danger to his life ended when another officer arrived.

Earl Malanado does not want Miguel Masso behind bars for what he did the night of January 28th. In an interview Malanado said, "My wish is that he not be a Police Officer anymore. That he no longer be in a position where people's lives are in his hands."

The Police Chief of Hollister, the City leaders of Hollister, and the people of Hollister should want that too.

# Unreported News from Haiti

From Haiti Action Committee, [www.haitisolidarity.net](http://www.haitisolidarity.net)

The attacks on democracy in Haiti continue as Haitians rise up to demand governmental accountability and economic justice. The most recent wave of protests began in early September marking the anniversary of the Sept 11, 1988 St Jean Bosco massacre.

10/24 – Demonstrations continue to erupt throughout Haiti, braving the terror of the Haitian National Police (PNH) and affiliated paramilitary forces. The demonstrators assert that Jovenel Moise and his illegitimate government are no different than the old Duvalier dictatorships, and they refuse to accept it. They demand the resignation of Moise, along with the resignations of similarly imposed corrupt members of parliament.

10/17 - The Moise regime attacked demonstrations throughout the country marking the anniversary of Haiti's first coup d'etat in 1806 and the

assassination of its first head of state and founder General, later Emperor, Jean-Jacques Dessalines. He is revered as a personification of Haiti's independence, and for his relentless campaign to distribute land to the formerly enslaved African majority, the chief reason for the coup against him.

10/12 - Members of BOID, the militarized unit of the Haitian National Police (PNH) trained and supervised by the UN/US occupation with U.S. taxpayer dollars, rampaged through the Port-au-Prince community of Lilavois, burning down houses and terrorizing the population in yet another case of repression and collective punishment. The short video posted on "HaitiInfoProj" on 10/25/17 was filmed in the dark during the police terror and is accompanied by a plea "...BOID terrorists set fire indiscriminately to cars, homes and businesses of people struggling to make ends meet..., shooting tear gas that is greatly harmful to children with asthma... How can we blame people for leaving Haiti...?" Radio and witnesses reported that one person is known to have been executed, others have disappeared, and many others severely beaten.

Community organizations, women groups, unions, and political parties, including the largest, Fanmi Lavalas Political Organization founded by former president Aristide (who was the priest at Jean Bosco in 1988), have been in full

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## The Mobilization of Shame

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institutions and processes, and "shame" is the invisible but potent force behind reporting and monitoring mechanisms that bring human rights abuses to public attention.

Reporting and the monitoring of human rights abuses shames governments at the international and local levels into addressing human rights abuses and gives communities access to another venue for being heard when governments refuse to respond. A little-known fact is that reporting and monitoring by African American civil rights leaders have played a vital role in shaping the UN and the human rights covenants that



10/24/17 protest in Haiti photo from HAC

emerged after World War II. When African American civil rights leaders in the NAACP realized that they had reached an impasse with the U.S. Government, which had refused to acknowledge or provide redress for the violence and civil and political violations committed against African Americans—voting laws, segregation, lynchings, etc. Public opinion is a powerful

instrument in the human rights system and the sway that it holds in human rights policy-making is amplified by the age in which we live—the digital era.

For example, the Danziger Bridge shooting, that occurred in New Orleans in the aftermath of Hurricane Katrina, in which members of the city's police department opened fire on unarmed civilians trying to escape from the hurricane ravaged part of New Orleans into a neighboring city, was brought to light and made actionable due in part to the outrage of the local actors who then pressured the authorities to address instances of egregious human rights violations.

As with the scholars who are re-envisioning how "shame" can be combined with "hope" in the practice of human rights, the best course of action may be to combine both monitoring and reporting and outreach to organizations out in the field who deal daily with social and economic issues and have relationships with local government to address human rights. Organizations that specialize in human rights reporting and monitoring might thus consider partnering with those local organizations so that deliberate policy actions to remedy those violations might be informed by human rights monitoring, and the abuses documented by monitoring organizations can be given voice in a more actionable arena.

Follow up and send your reports to us at [mcli1965@gmail.com](mailto:mcli1965@gmail.com).

# Did You Know You Are a Member of the Organization of American States?

By Ann Fagan Ginger

“All men are born free and equal, in dignity and in rights, and, being endowed by nature with reason and conscience, they should conduct themselves as brothers one to another.”

--from Preamble of the American Declaration of the Rights and Duties of Man

Few people in the United States today have ever heard of the OAS. It is seldom mentioned by the President, Senators, or Congressmembers or by the Secretary of the Department of State, and the media certainly has not reported the many recent affirmative statements by the new head of the OAS.

Today the leadership of the Organization of American States (OAS) is engaged in a number of activities to promote human rights in every nation in Central and South America. Presumably the Governments of Canada and the United States are enforcing the human rights in their Constitutions.

The U.S. is a member, whether President Trump likes it or not. The new president of the OAS is Luis Almagro, of Uruguay. He has issued a number of statements indicating that human rights are a major issue that must be addressed by every nation that is a member.

As you know, you are a resident of your city, county, state, United States, and United Nations. You are also a resident of the OAS and can take advantage of the human rights being publicized throughout the Americas by the OAS.

Given the situation in many U.S. cities, counties, and states of the violations of human rights of women, African-Americans, Latinos, Native Americans, Muslim Americans, youths, seniors, the unemployed, prisoners, and other “unpopular” groups, this is a good time for all of us to read the American Declaration of the Rights and Duties of Man and to tell our Government officials that we expect them to participate in OAS human rights activities.

For a copy of the American Declaration of the Rights and Duties of Man and for further information and reports, go to [www.oas.org](http://www.oas.org).



Ann Fagan Ginger speaking about the rights of the homeless to the Grey Panthers 11/22/17

## The City of Berkeley’s Attack on the Homeless

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I had been repeatedly harassed by law enforcement before being convicted of trespassing in 2015.

During my struggle I found many Berkeleyans who were hostile to me. They complained to the police and encouraged them to arrest me. Sometimes they confronted me in the street. Despite the fact I was doing no harm to them, they branded me a criminal.

The day after FTCfH received the 72-hour notice I arrived with a backpack filled with blank forms from the federal courts. We filled out paperwork including a Civil Rights Complaint, Motion for Temporary Restraining Order, and Motion for Preliminary Injunction which were filed with the federal court. A hearing was set for October 23, 2017, only a few hours before the 72-hour notice expired. The case is *Sullivan et al. v. City of Berkeley and BART* in the Northern District Court of California, case number C 17-06051 WHA.

The central legal argument in the original paperwork

was that arresting people who are homeless for seeking shelter in an encampment is a violation of the Eighth Amendment of the U.S. Constitution which prohibits cruel and inhuman punishment (see *Pottinger v. Miami*, 810 F.Supp. 1551, upheld by the Eleventh Circuit in *Pottinger v. Miami*, 40 F.3d 1155).

The judge ultimately denied the Motion for Preliminary Injunction, but the silver lining was that he agreed with the argument that the Eighth Amendment provides protections to the homeless on property

owned by the City of Berkeley. On November 1, 2017 Judge Alsup ordered both FTCfH and the City of Berkeley to provide a “Plan for Shelter of Berkeley Homeless” by noon on November 28, 2017.

The City of Berkeley’s harassment of landless people violates Article 11 of International Covenant on Economic, Social and Cultural Rights, which recognizes “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.” The U.S. has not yet ratified the ICESCR. The Committee on Economic, Social, and Cultural Rights has determined that Article 11 establishes that housing is a human right (See General Comments No. 4 and 7)

To support FTCfH contact them through their website:

<http://firsttheycameforthehomeless.weebly.com/>

## Unreported News from Haiti

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support of the popular mobilizations against the miserable living conditions and blatant government and generalized corruption associated with the disastrous 14-year UN occupation. In October, the UN rebranded its MINUSTAH army of occupation to become MINUJUSTH, a smaller force which will rely more on a rebuilding of the despised Haitian army, disbanded by President Aristide in 1995, to maintain control; see Edwidge Danticat in *The New Yorker*, "A New Chapter for the Disastrous United Nations Mission in Haiti?"

Widely supported general strikes took place on September 11 and October 2, 2017. Teachers have not been paid in months, and the regime is attempting to destroy the informal economy by squeezing out the market women, taxi drivers and other sectors to force people to rely on the ruling elite-owned supermarkets and corporate services that make profits for the wealthy and further marginalize poor people.

The occupation government has met these demonstrations with savage repression, attacking demonstrators with batons, bullets, tear gas and an irritant shot from water cannon that stings and burns the skin. The police and government-organized militia also follow people after protests, beat them with baseball bats, and frequently arrest them without cause and detain them without trial as is the case of the co-host of "Radio Timoun (Youth Radio)" show "Political Education." Death squads operate with impunity. L'Initiative des Avocats pour la Promotion et la Defense des Droits Democratiques (Initiative of Lawyers for the Promotion and Defense of Democratic Rights) reported in a Radio Timoun interview on 10/7/17, 15 people killed and over 40 arrested, with many others wounded.

During the protests on 9/21/17, government forces killed a young protestor in Port-au-Prince; another was killed the day before in Hinche. Many were arrested and wounded also in Trou-du-Nord as the infamous militarized police unit BOID assaulted demonstrators in Arcahaie, destroying taxi-motorcycles and other businesses of community residents. Children in school in Les Cayes were attacked with tear gas because they supported the general strike.

**SUGGESTED ACTION:** Help us report the news!

Since the media either blocks or distorts news from Haiti, we ask that you, our supporters, become a people's media for Haiti and help us report the news.

**SUGGESTED ACTION:** E-mail and phone-in campaign to:

- US State Department:

HaitiSpecialCoordinator@state.gov

- Your Member of Congress: +1 (202) 224 3121

- UN Mission in Haiti: [minujsth-info@un.org](mailto:minujsth-info@un.org)

## New Book Out Soon!

### **OUR 100 HUMAN RIGHTS: HOW WE CAN EXERCISE THEM AND GET THEM ENFORCED**

This is the first book, according to author Ann Fagan Ginger, to list every step someone can take to enforce all of their human rights in the U.S. Constitution and statutes, and in:

- United Nations Charter
- Convention on the Elimination of All Forms of Racial Discrimination
- Convention against Torture
- International Covenant on Civil & Political Rights
- Defenders of Mother Earth Treaty Compact of 2015
- Organization of American States: Declaration on the Rights and Duties of Man
- Convention on Elimination of All Forms of Discrimination against Women
- Convention on the Rights of the Child
- International Covenant on Economic, Social & Cultural Rights
- And more!

Publication date: Pres. Lincoln's birthday, Feb. 2018.

Contact: [Annfginger@gmail.com](mailto:Annfginger@gmail.com)

The following is an excerpt from *OUR 100 HUMAN RIGHTS: How to Exercise Them and Get Them Enforced*

### **Human Right 81. To join the Indigenous Women of the Americas in signing the Defenders of Mother Earth Treaty Compact of 2015**

In 2015, Indigenous women leaders from the Americas gathered in the East Meadow of Central Park, Traditional Territory of the Lenape of Turtle Island, to sign the Defenders of Mother Earth Treaty Compact, which rejects the concept of "natural capital" and demands direct action by the nonviolent Signers to stop the destruction of Mother Earth.

([www.ienearth.org/indigenous-women-of-the-americas-defenders-of-mother-earth-treaty-compact-2015/](http://www.ienearth.org/indigenous-women-of-the-americas-defenders-of-mother-earth-treaty-compact-2015/))

The Compact deplores the intolerable condition of capitalist efforts to extract profit from activities that degrade Mother Earth. After noting the inadequate nature of bureaucratic or legalistic reform efforts, like carbon trading, the Compact advocates for direct action to stop the companies and organizations that defile the environment for temporary wealth. In advocating for

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excerpt from *OUR 100 HUMAN RIGHTS: How to Exercise Them and Get Them Enforced*.

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direct acts, the Compact makes a distinction between what its Signers advocate—nonviolent direct action (NVDA)—and other forms of direct action, which are presumably violent and therefore undesirable.

The Compact further calls on women Elders to lead the nonviolent direct actions and to encourage others to do so, too. Tension arises between the transgressive acts that the Signers request and the need to remain “nonviolent.” This Compact points out the nonviolence of their selected approach, to contrast it with the approaches of manifestos about environmental direct action that are not concerned about being labeled as violent.

The respectability politics in play here allow for women to take a pro-direct action stance as a Defender of Mother Earth, while simultaneously rejecting violence. In refraining from advocating violent means to destroy capitalistic environment defilers, the Signers limit their own legal culpability for the so-called violent acts of property destruction and industrial sabotage of other environmentalists and position themselves as potentially legitimate negotiating partners to the powerful. Their promise to engage in nonviolent direct action tips their supports and their opponents off to what tactics might acceptably appear at an affiliated demonstration.

The dual goal of NVDA is to, indeed, take action, but also serves as a show of force to warn the powerful that the mass is actively choosing to maintain nonviolent discipline and could turn violent if further provoked. It is not necessary to explicitly lay out this fact since this latent threat of violence is always foregrounded in discussions of NVDA.

The women who sign onto this document personally dedicate themselves to NVDA and to fan the flames of discontent by leading others in same. They make a valid assumption of the State Party’s unwillingness to crack the heads of women Elders at protests and thus call on women Elders to lead these protests to stop the destruction of our world. This Compact does not include nation-states as Signers—but rather solely women who pledge to engage in civil disobedience on a coordinated international scale to defend Mother Earth.

#### **What to Do**

**TD1.** If you are a woman Elder, commit acts of civil disobedience to defend Mother Earth.

**TD2.** Get a copy of the Defenders of Mother Earth Treaty Compact of 2015 (see Notes for this chapter).

## **Ghost Ship Fire One-Year Anniversary**

*By Steven DeCaprio*

December 2, 2017 marked the one-year anniversary of the fire at an underground venue known as the Ghost Ship where 36 people lost their lives in Oakland, CA. Among those who died was my friend Denalda. There were also many within the close-knit communities of artists that I have been a part of for many years.

Denalda and I squatted together as well as worked to establish and defend occupied spaces to provide housing and community space for landless people involved in social movements. Not only was Denalda a passionate housing rights organizer, but she was also an amazing artist and musician. At the time she passed she was part of the group Introflirt creating amazing music.

<http://www.introflirtmusic.com/>

After the fire I did not have a chance to process my grief before the calls started coming in. People living in warehouses and storefronts were getting inspected and red-tagged. Landlords were threatening evictions out of fear. People were snitching on neighbors who were living in unpermitted spaces. Speculators and developers were calling in false complaints to drive out residents and businesses.

Soon there were calls from those facing displacement and their allies to demand a moratorium on evictions in the wake of the Ghost Ship fire, but the city inspectors in the Bay Area and across the country did not listen. Harassment and evictions continued through the holidays.

For many years art has been used as a weapon of gentrification in Oakland. Because of this it was often difficult to find support. A group of at-risk community members formed the Oakland Warehouse Coalition and Land Action worked with them to seek a moratorium.

On behalf of Land Action, I wrote what became called the Emergency Tenant Protection Ordinance which addressed a broad range of issues affecting the community as it relates to issues that were exacerbated in the aftermath of the Ghost Ship fire. I drew from lived experiences and the input from friends and allies.

Ultimately the Emergency Tenant Protection Ordinance was rejected so the City of Oakland could use our grief as an opportunity to enrich real estate developers and speculators. However, our efforts enabled some spaces to avoid eviction due to the political pressure we created. I am grateful for these victories in the face of intense housing oppression.

# Second Human Rights Forum on Racism;

**Mobilization to Submit Shadow Reports to the U.N. Committee on the Elimination of Racial Discrimination**

**January 18, 2018 at 6:30 PM at the  
GROW Incubator at 909 7th  
Street, Oakland, CA 94607.**

It comes as no surprise that the Trump administration seems to have failed to submit its report to the U.N. Committee on the Elimination of Racial Discrimination (CERD) by the deadline November 20, 2017. The Meiklejohn Civil Liberties Institute (MCLI) continues to reach out to the community to ensure that all forms of racism by the federal, state, and local governments in the U.S. are included in a shadow report to be submitted by MCLI and allies working in communities experiencing racism at the hands of the government.

With the election of Donald Trump racism in the U.S. has been amplified. The struggle of the Water Protectors at Standing Rock, the "Muslim Ban", the repeal of Deferred Action for Childhood Arrivals (DACA), the police violence against and mass incarceration of African Americans, harassment and criminalization of immigrant communities, and exploitation of immigrant labor are just some of the forms of racism that the MCLI would like to address in the upcoming report.

MCLI is holding this event to explain the process of holding the U.S. accountable for racism, to include the lived experiences of community members who have experienced racism at the hands of the government as well as social justice organizations working in communities of color, and to seek assistance compiling the report.

MCLI wants our shadow report to be as expansive and comprehensive as possible. The only way we can do this is with community input and assistance. Please come to this event to find out how your experiences can be included and how you can help MCLI compile this report.

There will be a presentation by organizers working with MCLI followed by a Q and A.

# Donate to MCLI Today!

The Meiklejohn Civil Liberties Institute needs funding to support our work holding human rights forums and writing shadow reports on human rights violations to international bodies such as the U.N. Committee on the Elimination of Racial Discrimination.

Our Human Rights Forums ensure that MCLI works collaboratively with oppressed communities and social movements.

Make a donation today to our crowdfunding campaign here:

<https://www.youcaring.com/mcli>

# Order MCLI Books for the Holidays!

“Nuclear Weapons Are Illegal” by Ann Fagan Ginger  
In July 1996 the International Court of Justice made history by declaring nuclear weapons illegal. Here is the complete decision and much more.....\$30.00

“Alexander Meiklejohn: Teacher of Freedom” by Cynthia Stokes Brown  
Anthology and biographical study of the great First Amendment advocate.....20.00

“The Ford Hunger March” by Maurice Sugar  
This study of this important uprising has been praised by Philip S. Foner, Studs Terkel, Coleman A. Young, Percy Llewellyn, and Edith Withington.....\$15.00

Ordering information below:

<b>Total from above:</b>	
<b>CA res. add 9.25% tax:</b>	
<b>Orders up to \$45: \$5 (shipping / handling)</b>	
<b>Other Orders: \$10 (shipping / handling)</b>	
<b>Total:</b>	
<b>Make checks payable to MCLI; send w/ this form to:</b>	
<b>MCLI, P.O. Box 673, Berkeley, CA 94701-0673, (510) 848-0599, mcli1965@gmail.com</b>	