

## Historic Decision in *Turkmen v. Ashcroft*: Ashcroft CAN be Held Accountable for Post-9/11 Abuses

**“ The Constitution defines the limits of the Defendants’ authority; detaining individuals as if they were terrorists, in the most restrictive conditions of confinement available, simply because these individuals were, or appeared to be, Arab or Muslim exceeds those limits.”**

**Second Circuit Court of Appeals Opinion 6/17/15**



Former Attorney General John Ashcroft.

In an extraordinary victory on June 17 the court reinstated CCR’s claims against former Attorney General John Ashcroft and two other high level Bush administration officials in *Turkmen v. Ashcroft*. Our longtime supporters are intimately familiar with the details of the case, first filed in 2002: our clients, among hundreds of other men, were rounded up in the post-9/11 hysteria in New York City because they were Muslim, Arab or South Asian. They were placed in solitary confinement for months and abused, even though they were only charged with civil immigration violations and the government had no reason beyond their race and religion to consider them dangerous. These men were detained as “suspected terrorists” until cleared of any connection to terrorism by the FBI, and then deported.

Among other horrific abuses, individuals had their faces smashed into a wall where guards pinned a t-shirt with a picture of an American flag and the words, “These colors don’t run.” They were slammed

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## Providing Movement Support for #BlackLivesMatter

On April 12, Freddie Gray’s voice box was crushed, his spleen ruptured and 80 percent of his spine severed while in the custody of Baltimore police officers. Video shows him being dragged, screaming in pain, into a police van. A week later he was dead. Baltimore residents responded with anger and took to the streets to demand not only justice for his death—ruled a homicide—but also an end to systemic abuse by Baltimore police. Yet, city officials and mainstream media reserved their strongest condemnation not for Freddie Gray’s smashed spinal cord, but for the smashed windows and other property damage that were a minor part of the demonstrations in Baltimore.

Everything about these events fits into a now horribly familiar story; and as the movement for Black Lives has so powerfully articulated in the last year, it’s not about a few rotten apples spoiling the bunch—it’s about a system that is rotten from top to bottom—a system that enables structural racism, police violence and discrimination. CCR has been supporting the #BlackLivesMat-



photo: nadja robo (flickr.com)

One of the hundreds of direct actions and protests in support of #BlackLivesMatter.

ter movement through solidarity, press, social media and calls to action. Most importantly, however, the Center has helped to build a legal infrastructure to support activists who are challenging the systemic nature of the problem and demanding change.

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# It's all Connected...

By Vince Warren

In March, I spoke about CCR's work at a first-of-its-kind summit of leading organizations exploring the connections between current civil rights work in Black communities and that in Muslim, Arab and South Asian communities. It was a natural fit for CCR because we have always worked at these crossroads. As you know so well, the work your support makes possible tackles systemic problems—problems that don't end with the arrest of rogue cops, bad apples or even evil presidents; but rather, with dismantling the powerful systems and policies that enable and encourage their illegal activity. This is why we connect the dots between individual pieces of our work: to offer a broader understanding of seemingly disparate problems, and build solidarity among/support movements for change.

You don't have to look far to see it. Take the NYPD. With your support, we successfully sued the City of New York and the NYPD over its racially discriminatory stop-and-frisk program, in *Floyd v. City of New York*. And we sued them again, to end the NYPD's illegal spying on Muslim communities in New Jersey, in *Hassan v. City of New York*, a case which is ongoing. Both the similarities and the differences are important here, and both cases form part of our broader work to end discriminatory policing.

Take the FBI. On June 12, we were in

court in another case about spying on Muslim communities, *Tanvir v. Lynch* (formerly *Holder*—see article on page 4). *Tanvir* challenges the FBI's abuse of the No-Fly List to coerce law-abiding Muslims into spying on their religious communities. This argument happened against the backdrop of recent reports that the FBI Joint Terrorism Task Force tracked Black Lives Matter protests. It is significant to people like us that federal law enforce-



...But this is exactly why we need a CCR. Whether at Guantánamo Bay or Pelican Bay, CCR protects those with the least access to power...

ment is curtailing basic constitutional rights, in these two communities, at this moment in history.

Meanwhile, we had a tremendous victory in *Turkmen v. Ashcroft*, described on the front page. On June 17, the court ordered that our claims against high level officials (Ashcroft, Mueller and Ziglar) could proceed, continuing our effort to hold them accountable for the abuses suffered by Muslim and Arab men after 9/11 here in New York City. In *Ashker v. Brown*, CCR is taking on another dimension of the mass incarceration problem: solitary confinement. We represent a class of prisoners in California's Pelican Bay prison who have been in long-term solitary confinement, some for more than *three* decades. Mass incarceration, like discriminatory policing and illegal surveillance, is at the nexus of social control for the all of these diverse groups of people.

The particulars of the violations and the communities differ, certainly, but the common denominator is the pernicious presumption that these populations pose so grave a threat that their constitutional and human rights have become a luxury law enforcement can no longer afford. And with these rights conveniently out of the way, law enforcement seeks only to expand its policing, surveillance and incarceration power.

But this is exactly why we need a CCR. Whether at Guantánamo Bay or Pelican Bay, CCR protects those with the least access to power at the very point where their lives intersect with those with the greatest—the government; an imbalance that is deeply and tragically woven into the fabric of the United States. Challenging injustice at this crossroads is the prerequisite to building the world we want, and thanks to your support, we're doing just that.

If you take a look at our brand new website, [ccrjustice.org](http://ccrjustice.org) (and I really hope you do—it's beautiful!), you'll see all these connections—how all our cases link to each other and express our fundamental commitment to fight for the most vulnerable populations and communities. Living out that commitment is only possible because of the support of so many thousands of CCR's friends, like you. Thank you for all that you do to help move the work of justice forward.

## Outraged? Let others know.



Follow the "Center for Constitutional Rights" on Facebook and @theCCR and @VinceWarren on Twitter.



Go to the profiles in the "Who We Are" section of our new website to find the Twitter Handles of CCR staff working on issues you care about. Subscribe to CCR's YouTube channel.



## Cover Stories (continued)

### #BlackLivesMatter

photo: Basil-Malik (flickr.com)



As we did in Ferguson, CCR was on the ground in Baltimore within days to lend its legal expertise to the community. Purvi Shah, the director of our Bertha Justice Institute (BJI), worked with local leaders to build legal support and infrastructure for the movement. She helped set up a jail support system and hotline, and worked to get legal observers trained and deployed. CCR's presence in Baltimore facilitated connections with activists and resources elsewhere, including in Ferguson. The Ferguson Legal Defense Committee—which CCR was instrumental in founding—provided initial support and a model for the Baltimore effort.

Connecting the activists and leaders in different cities and empowering communities across the country to develop the legal tools they need to challenge systemic police abuse is a critical part of supporting and strengthening the movement for Black Lives. That is why on July 31 the BJI will be hosting a #Law4BlackLives conference, bringing together lawyers, law students, legal workers, jailhouse lawyers and activists to strategize ways to resource the growing movement both nationally and locally. Hundreds of people will come together to talk about everything from legal tactics to legislative possibilities.

CCR's work on the ground in places like Ferguson and Baltimore, and efforts to connect activists with legal resources throughout the country, have been complemented by a sustained media strategy aimed at reframing dominant narratives about police violence. Executive Director Vince Warren and others have been interviewed on dozens of news shows, from Democracy Now! and the Melissa Harris-Perry Show to CNN and even Fox News. Meanwhile, CCR was invited to present testimony to the Presidential Task Force on 21st Century Policing, and we have supported actions and initiatives by others for specific reforms, like the appointment of special prosecutors in cases of police killings.

[CCRjustice.org/racial-injustice](https://www.ccrjustice.org/racial-injustice)

### Turkmen

**“If there is one guiding principle to our nation it is the rule of law. It protects the unpopular view, it restrains fear based responses in times of trouble, and it sanctifies individual liberty regardless of wealth, faith, or color.”**

—Second Circuit Court of Appeals Opinion 6/17/15

against the t-shirt upon their entrance to the Metropolitan Detention Center (MDC) and told, “Welcome to America.” The t-shirt was smeared with blood.

As our supporters know, it is exceedingly rare for claims against any Bush-era high level officials to proceed. In its 109-page decision, the court roundly rejected the government's national security justification for racial profiling: “[T]here is no legitimate governmental purpose in holding someone as if he were a terrorist simply because he happens to be, or appears to be, Arab or Muslim.” The court also rejected an attempt by the MDC warden and other prison officials to dismiss the claims against them.

Most epically, in an unusual “Final Thoughts” section in the opinion, the court wrote:

*If there is one guiding principle to our nation it is the rule of law. It protects the unpopular view, it restrains fear based responses in times of trouble, and it sanctifies individual liberty regardless of wealth, faith, or color. The Constitution defines the limits of the Defendants' authority; detaining individuals as if they were terrorists, in the most restrictive conditions of confinement available, simply because these individuals were, or appeared to be, Arab or Muslim exceeds those limits. It might well be that national security concerns motivated the Defendants to take action, but that is of little solace to those who felt the brunt of that decision. The suffering endured by those who were imprisoned merely because they were caught up in the hysteria of the days immediately following 9/11 is not without a remedy.*

CCR looks forward to deposing Mr. Ashcroft and others, and moving towards trial. We thank our supporters for sticking with us in this long battle—and hope that you, too, celebrate this progress as the victory it is.

[CCRjustice.org/Turkmen-v-Ashcroft](https://www.ccrjustice.org/Turkmen-v-Ashcroft)

# Spy or Don't Fly



CCR legal team, co-counsel and clients in front of the courthouse after the June 12 argument.

CCR is extremely pleased to announce that in early June, our clients in *Tanvir v. Lynch* (formerly *Holder*) received letters from the U.S. government stating that they were not currently on the No-Fly List. The news simply confirmed what the men have always known: that they never posed a security threat of any kind and that the FBI only listed them to coerce them into becoming informants and spying on law-abiding friends, family, and fellow members of their Muslim community.

*Tanvir v. Lynch* was initially brought in 2013 on behalf of four men by the CLEAR project (Creating Law Enforcement Accountability & Responsibility) at CUNY School of Law and was later joined by CCR and co-counsel Debevoise & Plimpton, LLP. The government moved to dismiss our case, and oral argument was held on June 12. Just prior to argument, the government

announced the removal of our clients from the List. While we are gratified that our clients can now travel without restrictions, what happened was an abuse invited by a system that lacks transparency and accountability. On June 12, CCR argued that the courts need to ensure that people placed on the List solely as leverage to force them to spy on their communities can seek justice for the injuries they suffered.

As readers of our newsletter will recall, the No-Fly List bars individuals from boarding a flight to, from, or over U.S. airspace. Federal agents can place individuals on the List based on ludicrously permissive and hopelessly vague criteria. Documents leaked in 2014 show that the sole requirement for labeling someone a terrorist and barring them from flying is a federal agent's judgment that a person might pose a 'threat' of engaging in ter-

rorism. People on the list are left with the impossible task of proving a future negative: that they will never become a terrorist. Until the pressure of this and other lawsuits, the government refused to tell anyone whether or not they were on the list, explain why they were placed on the list, nor provide a meaningful opportunity to contest this placement. This utter lack of transparency and meaningful oversight makes the List ripe for the type of abuse that FBI agents inflicted on our clients: placing them on the list solely in order to coerce them into becoming informants and spying on law-abiding members of their faith community.

We now await the court's ruling on the June 12 argument as to whether or not our case can proceed.

[CCRjustice.org/tanvir](https://www.ccrjustice.org/tanvir)

# The Many Injustices of Guantánamo

Tens of thousands of people have seen *Waiting for Fahd: One Family's Hope for Life Beyond Guantánamo* since its debut in December. But until recently, the subject of the film—CCR client Fahd Ghazy, who has been illegally detained in Guantánamo since he was a teenager—had not seen it himself. All of that changed on Friday, March 13, as Fahd sat with CCR's Omar Farah and Aliya Hussain and watched his life and his loved ones roll by on the screen.

Sitting in Guantánamo's Camp Echo, watching on an old Defense Department DVD player, Fahd finally experienced the film he had conceived in his cell. He was nearly brought to tears with joy and sorrow, seeing his daughter, wife and brothers, the rooms of his home and the majestic mountains where it is nestled.

Omar wrote from Guantánamo: "Fahd watched the film again today in our meeting cell, pausing frame by frame to reflect on what was playing out on screen. He was visibly overwhelmed. He hadn't seen his loved-ones walking, talking, and interacting with each other since he left Yemen. He sees their faces periodically on video calls, but he's missed watch-

ing them moving through his home in unscripted, intimate family moments for nearly 15 years. Sitting across from Fahd as he experienced this through his first viewing of *Waiting for Fahd* was one of the most gratifying moments I've had in the last seven years working with him."

Omar and Aliya also brought copies of news coverage, op-eds, solidarity photos, Twitter and Facebook posts so Fahd could see the outpouring of support you have

regret at not closing the prison on his first day of office. No one regrets that misstep more than our clients, but Obama still has the power to right that wrong and end the suffering of these men, and others, as well as the families and friends who await their return.

Unfortunately, the injustices of Guantánamo do not always end when men are finally released. In April, *Harper's* published a moving essay by CCR's Pardiss Kebriaei about two men who, after enduring years of torture and unjust detention at Guantánamo, are now peacefully rebuilding their lives. Abdul Nasser Khantumani and Muhammed Khantumani are a

father and son who were detained, separated, and then released to two different countries: as of this date they are still prohibited from seeing each other. Family is the bond that holds the Khantumanis together; the same is true for the Ghazys. Pardiss's story is an agonizing account of the injustice that continues for men like Muhammed and Abdul Nasser even post-release.

**Fahd watched the film again today in our meeting cell, pausing frame by frame to reflect on what was playing out on screen. He was visibly overwhelmed. – Omar Farah**

shown him since the film was released. "Thank you for all the joy that you brought me," Fahd told them. He marveled at the thousands of individuals who have chosen to stand with him and his family.

Omar and Aliya also met with CCR clients Mohammed Al Hamiri, Tariq Ba Odah and Ghaleb Al Bihani. Like Fahd, they are all from Yemen, and all cleared for release—yet they continue to languish in Guantánamo. It was during this visit that President Obama publicly expressed his

[CCRjustice.org/closegitmo](http://CCRjustice.org/closegitmo)



Stills from *Waiting for Fahd*. Watch the film at [www.CCRjustice.org/fahd](http://www.CCRjustice.org/fahd).

# CCR in Brief....

## False Anti-Semitism Charges Undermine Palestinian Rights Advocacy

As our readers know, CCR represents Professor Steven Salaita, who was terminated from a tenured position by the University of Illinois Urbana-Champaign for tweets critical of Israeli policy. The University moved to dismiss our federal case, which CCR and co-counsel Loevy & Loevy opposed. We currently await a decision, but are proceeding with discovery. In April, the report released by the American Association of University Professors regarding the termination concluded it was a summary dismissal that violated principles of academic freedom, standards of academic governance and due process.

Professor Salaita's case is an egregious



Faculty, students and other demonstrators call for the reinstatement of Professor Steven Salaita.

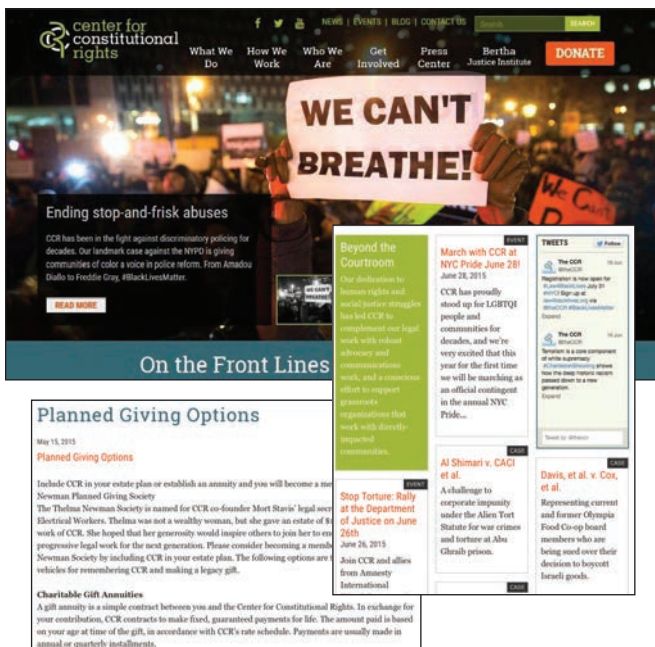
example of a nationwide trend. In May, Palestine Legal and CCR released findings regarding the increasing use of accusations of anti-Semitism on U.S. college campuses to suppress Palestinian rights advocacy efforts. From January through April, 60 such incidents were reported, and 24 more involved accusations of "terrorism" or "support of terrorism," all based solely on speech critical of Israel. At two universities, votes on divestment

resolutions were blocked because Israel advocacy groups claimed they would create an anti-Semitic climate. These attacks undermine Palestinian human rights advocacy by conflating it with anti-Semitism. In doing so they not only violate free speech rights, but also detract from the fight against true anti-Semitism.

[CCRjustice.org/salaita](http://CCRjustice.org/salaita)

## CCR Launches New Web Site

We're excited to share the new [www.CCRjustice.org](http://www.CCRjustice.org) site with you, which has been revamped from top to bottom! The new site highlights CCR's unique approach, which strategically combines litigation, advocacy and communications work together to explore and advance our issues. Check it out!



## Update from an Ella: Cyrus Dugger

Cyrus Dugger was a 2005 Ella Baker Fellow at the Center, after deciding to go to law school based on a course at Brown University on the U.S. civil rights movement. One of the important lessons learned from that course was that the fight for civil rights is inextricably intertwined with the fight for human rights.



Cyrus saw that CCR was, and is, the leading organization that fights for the protection of U.S. civil rights and human rights, as a common cause, and moreover, takes on the rights of politically unpopular groups, and issues, because it is the right thing to do. When he realized that, he said "I ask you, how could I not have wanted to intern for CCR?" After his fellowship, Cyrus graduated from NYU School of Law in 2006, and in 2014 started his own firm: The Dugger Law Firm, PLLC. A solo practice, focused on employment, Cyrus tackles economic justice issues by working to improve New York employees' working conditions and continuing to stamp out discrimination and wage theft in New York.

Cyrus was previously a law clerk to the Honorable Victoria A. Roberts in the Eastern District of Michigan, a staff attorney with the South Brooklyn Legal Services Foreclosure Prevention Project, and an associate with Outten & Golden, LLP.

## Challenging Communications Management Units

Since 2010 CCR has been litigating *Aref v. Holder*, a challenge to the restrictive and inhumane CMUs where the Bureau of Prisons warehouses Muslim and other 'unpopular' prisoners as a means of limiting their access to other prisoners and the outside world. In March, a federal court ruled that CMUs are not sufficiently harsh or restrictive enough to trigger due process rights. Thus they declined to consider the extensive evidence we presented demonstrating the broken designation and review procedures that have consistently plagued the CMU system. CCR profoundly disagrees and filed our notice of appeal on May 14.

[CCRjustice.org/aref-v-holder](http://CCRjustice.org/aref-v-holder)



## Martin Ssempe is a U.S. Citizen

In April, CCR learned that Martin Ssempe, a leading figure in the persecution of the LGBTI community in Uganda, is a U.S. citizen. Ssempe is an ally of Scott Lively, whom CCR and Sexual Minorities Uganda (SMUG) are suing for persecution of LGBTI Ugandans. Ssempe has intimate knowledge of key facts and, as a witness who is a U.S. citizen, is subject to the jurisdiction of the U.S. court. The court granted CCR's request to issue a subpoena for him to testify in the case.

[CCRjustice.org/LGBTuganda](http://CCRjustice.org/LGBTuganda)



## CCR Honored in Selma

CCR was honored to have been included in the March 7th commemoration of the 50th anniversary of Bloody Sunday — the infamous day where Alabama state troopers viciously beat civil rights marchers crossing the Edmund Pettus Bridge in Selma. In recognition of their leadership as 'movement lawyers' in the civil rights movement, three of CCR's founders—William Kunstler, Arthur Kinoy and Morty Stavis were inducted into the "Legal Guardians Hall of Fame" at the National Voting Rights Museum in Selma, Alabama. Pictured above: Vince Warren with Ben, Rob and George, sons of CCR founder Morty Stavis, on the iconic Edmund Pettus Bridge in Selma.

## The CIA Tortured Majid Khan. Where is the Accountability?

In June, declassified information detailing CCR client Majid Khan's torture in CIA secret detention was made public for the first time by *Reuters*. The world now knows what CCR lawyers have had to keep secret for years: Khan was water-boarded, raped, hung from a wooden beam for days on end, and lived in darkness for most of 2003. The report, picked up across the globe, generated hundreds of news stories. *The New York Times* Editorial Board condemned the government's treatment of Khan and other detainees in violation of federal law and the Convention Against Torture.

Details of Khan's torture go beyond what was in the executive summary of the December 2014 Senate Torture Report. With evidence mounting of the savagery and deceit of the CIA, we have an opportunity to renew our call for accountability. CCR launched a petition asking President Obama to confront torture by: firing CIA Director John Brennan, releasing the full Senate Report and CIA internal Panetta



review, and urging the DOJ to open a criminal investigation.

CCR has represented Khan since he was transferred to Guantánamo in 2006, and has sought to have his experiences made public. In his first declassified letter in 2007, Khan wrote: "I just wanted to thank you for fighting for me and doing your

best to get me out of here. Please. Don't give up trying." These revelations are a major step towards accountability for what Khan endured. Thank you for your continued support of CCR, Majid, and our other clients at Guantánamo.

[CCRjustice.org/Majid-Khan](http://CCRjustice.org/Majid-Khan)

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CAN be Held Accountable  
for Torture



Supporting the  
#BlackLivesMatter Movement



Client Stories from  
Guantánamo



CIA Torture of CCR Gitmo  
Client Declassified

We launched a new website!  
Check out [www.CCRjustice.org](http://www.CCRjustice.org)

## Donor Spotlight: Rachel Porter

Rachel Porter, of Brooklyn, NY, has been a supporter of CCR's work for as long as she can remember: "I knew about CCR for a long time. You've been on my radar forever. I come from a very politically progressive background. CCR's work is very important although I wish it weren't necessary. It is vital and moral, particularly in our post-9/11 world where we don't think of the ethical implications of how we go after people we consider an enemy. CCR preserves the laws of our country. Sometimes I find the work so depressing, but I'm glad you are there doing it."



That is why Rachel decided to join the Thelma Newman Planned Giving Society and place CCR in her will: "I believe in giving away money. The American tax system is set up in an unjust way. Americans have a responsibility, due to our tax structure, to make contributions to organizations they believe in. I believe strongly in preserving the rights of underserved, marginalized individuals and groups. I support organizations that fight for people who are treated unfairly. So I would say that I have an obligation to give to organizations like CCR."

**For more information on how you can make a planned gift, including charitable gift annuities and bequests, please contact Jeremy Rye at [jrye@ccrjustice.org](mailto:jrye@ccrjustice.org) or 212-614-6473.**

## Your Support Makes Justice Possible!

Thanks to the goodwill and generosity of our donors over the past year, we were able to meet the \$500,000 matching gift challenge from The Atlantic Philanthropies. We could not be more grateful for your support! Thank you! And thanks also to Atlantic for this tremendous opportunity to fuel the fight for justice!

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