

ANNUAL 2010 REVIEW



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Table of Contents

2	A Brief History of the ACLU
4–10	Center For Democracy National Security Human Rights Speech, Privacy, and Technology
11–16	Center for Justice Criminal Law Reform Prisoners’ Rights Capital Punishment
17–21	Center for Equality Racial Justice Voting Rights Immigrants’ Rights
22–29	Center for Liberty Freedom of Religion and Belief Lesbian, Gay, Bisexual, & Transgender Rights Reproductive Freedom Women’s Rights
30	Summary of 2009 Supreme Court Term Litigation
33	Leading Freedom Forward: ACLU Campaign for the Future
38	Financial Statement and Ways to Give

A BRIEF HISTORY

The ACLU stands up for ordinary people. We are in every corner of the United States, working to protect civil liberties: fighting on behalf of protestors denied permits to march and immigrants suddenly detained with no charges brought against them; supporting the gay teen threatened by school bullies and the waitress exploited because of her gender; defending the rights of the prisoner whose repeated rape is ignored by guards and the girl whose parents would kick her out on the street if they knew she was pregnant and seeking an abortion.

We care about principles – freedom, justice, equality, fairness. Typically, this means that we end up caring for the people who otherwise would have no one in their corner.

Since our founding in 1920, the ACLU has been at the forefront of virtually every legal battle for civil liberties and equal justice in this country. At that time, civil liberties seemed a utopian dream, distant from established legal reality. The U.S. Supreme Court had yet to uphold a single free speech claim under the First Amendment. Activists languished in jail for distributing anti-war literature. Foreign-born people suspected of radicalism faced summary deportation. Racial segregation was the law of the land and lynching was popular as both a means of law enforcement and public entertainment. Women were typically the legal wards of their husbands and fathers, unable to conduct business, get credit, or go to a restaurant unescorted. Constitutional rights for lesbians and gay men, the poor and many other groups were virtually unthinkable. For ninety years, the ACLU has worked to change that dismal picture. As individuals, groups and movements have struggled to gain rights, the ACLU has joined with them, bringing our nonpartisan legal expertise to bear. We fought the “Palmer raids,” the campaign of harassment and deportation waged by then-Attorney General A. Mitchell Palmer against politically radical immigrants. We led the legal battle against censorship, defending the teaching of evolution and helping to overturn restrictions on birth control information and James Joyce’s *Ulysses*. We tackled racism, condemning lynching, documenting discrimination and helping to bring the series of cases that culminated in *Brown v. Board of Education*, the Supreme Court case that put an end to the segregationist doctrine of “separate but equal.” Characteristically, the ACLU brought two of its most controversial challenges to the federal government during the patriotic fervor of World War II, suing to stop the racial segregation of the draft and the internment of Japanese Americans.

Often the ACLU has been in the vanguard, litigating more cases before the Supreme Court than any other non-governmental organization. In 1965, we won *Griswold v. Connecticut*, the landmark birth control case that established a “right to privacy,” and paved the way for *Roe v. Wade*, the decision decriminalizing abortion. In 1967, we brought *In re Gault*, the landmark case that overhauled the juvenile justice system by ruling that young people have due process rights. In 1971, we won *Reed v. Reed*, the landmark decision condemning sex discrimination as a violation of equal protection. Seventeen years before the Supreme Court upheld the privacy rights of lesbians and gay men in *Lawrence v. Texas*, we urged the overturn of sodomy laws in *Bowers v. Hardwick*. And even with a conservative court, we still push the freedom envelope. Our 2009 Supreme Court win in *Safford Unified School District v. Redding*, where the court declared unconstitutional a school’s strip-search of a 13-year-old girl for ibuprofen, not only extended student privacy rights it potentially curbed public school drug hysteria. Today, we have several potential U.S. Supreme Court cases in the pipeline – including a government challenge to a circuit court victory that upholds former Attorney General John Ashcroft’s potential accountability the wrongful post-9/11 detention of an innocent American.

And our advocacy and impact has extended far beyond the courtroom. Over fifty years ago, the ACLU developed the first civilian review board for police misconduct – and followed up with the first “know your rights” brochure for people facing arrest. We published the first documented report on illegal detentions by the police. Combining our research and advocacy with litigation, we developed the arguments that established ground rules for police conduct in landmark decisions such as *Miranda v. Arizona*.

Time and again, across the civil liberties agenda, we have used multiple strategies to synergistic effect. Today, we continue to leverage our litigation, advocacy and public education skills to create maximum movement for change. Indeed, as the media cut back on investigative reporting and give increasing deference to government, our role is more important than ever. The story of the Bush Administration’s torture agenda would never have been told without our Freedom of Information Act litigation and advocacy, nor would the current push for accountability exist. In a very real way, the ACLU is America’s conscience. ■

CENTER FOR DEMOCRACY

The ACLU's Center for Democracy works to strengthen democratic institutions; to deepen the United States' commitment to democratic values, including the values of transparency and accountability; and to strengthen the United States' commitment to human rights and the rule of law.

One of our overarching goals is to ensure accountability for torture—a critical issue that goes to the very heart of our country's values. We are working to ensure that the U.S. is brought back into line with both constitutional and international human rights standards. We are also committed to protecting informational privacy, which has come under attack in recent years due to a perfect storm of technological innovation, post-9/11 anxiety, and a new business model that relies on the collection of vast amounts of customer information. We seek to bring privacy laws and policies up to date in order to maintain our country's longstanding commitment to "the right to be left alone." On these and other issues, the Center for Democracy brings together the ACLU's unmatched expertise in national security, human rights, free speech, and privacy rights—all to uphold our most fundamental democratic ideals.

National Security

The ACLU's National Security Project is at the forefront of virtually every major legal battle relating to national security, civil liberties, and human rights. We advocate for national security policies that are consistent with the Constitution, the rule of law, and fundamental human rights; and we litigate cases to challenge unlawful detention, torture, discrimination, surveillance, censorship, and secrecy.

Combating the Use of Torture

Torture is wrong, illegal, and un-American. Though for sixty years the United States led the international fight against torture, the Bush administration betrayed this proud tradition of

humane detention and interrogation practices after 9/11. Employing what is now a years-long Freedom of Information Act (FOIA) lawsuit, the ACLU took up the fight by obtaining and exposing over 130,000 secret documents related to the U.S. torture program—an accomplishment hailed by the *New York Times* as "among the most successful in the history of public disclosure." We have also launched an innovative "Wiki-inspired" website that provides a real-time, online narrative of what we know about the torture program (www.thetorturereport.org) in order to educate journalists, bloggers, and the public, and to create an historical record. And we continue our campaign to hold accountable

those government officials who authorized it, pressing for an expansion of the Justice Department's far too narrow investigation and for Congressional oversight hearings.

Ending Military Commissions and Indefinite Detention

The Constitution assigns the essential right to due process to everyone under U.S. jurisdiction. The ACLU remains committed to protecting that right, even as our government has subjugated the rule of law by holding detainees indefinitely and without charge, and by creating special military commissions where hearsay evidence and evidence obtained through torture are admissible. We have brought all the tools in our arsenal to the fight – we published a full-page ad in the *New York Times* calling on President Obama to prosecute the 9/11 suspects in civilian courts rather than the flawed military commissions; 50,000 ACLU members and activists sent email messages to Obama with this same message; and we have had numerous meetings at the White House, Defense Department, and Justice Department. The ACLU will continue to bring pressure on government officials to follow the rule of law, using federal lawsuits when necessary.

Fighting Unchecked Government Surveillance

Since 9/11, the government has stepped up its use of the National Security Agency (NSA) to carry out unchecked spying on ordinary Americans, encroaching on our privacy and free speech rights—all without judicial oversight. Shockingly, in 2008, Congress passed the FISA Amendments Act (FAA), which not only legalized the NSA's warrantless surveillance program but actually *expanded* the power of the executive branch to conduct suspicionless

dragnet surveillance of Americans' international communications. Just hours after President Bush signed the legislation, the ACLU filed a landmark lawsuit to block its enforcement. We argued the case before the Second Circuit Court of Appeals in April 2010; we now await a decision. In the meantime, we have filed a Freedom of Information Act request in order to get more information about how the FAA has been used, how many Americans are affected by this sweeping spying regime, and what safeguards are in place to protect privacy. We also continue to provide testimony before Senate and House committees about the problems inherent in surveillance without suspicion of criminal activity and in the sharing of collected information without adequate controls for accuracy and privacy.

Challenging Discriminatory Post-9/11 Policies

Since September 11, 2001, a steadily growing number of individuals and organizations have been blacklisted by the government, designated as terrorist organizations, placed on bloated government watchlists, or otherwise deprived of their liberty or property rights without due process. These measures have disproportionately impacted political, ethnic, and religious minorities. The ACLU is challenging these discriminatory programs in court. For example, we recently filed a major lawsuit on behalf of people who are prohibited from flying into or out of the United States because they are on the government's secretive and error-prone "No-Fly" list. Our clients have neither been told why they are on the "No-Fly" list nor given any opportunity to clear their names. We are also challenging the process by which the government designates certain charities as "terrorist organizations" and freezes their assets,

all without probable cause. We won a landmark ruling in May 2010, essentially stating that the U.S. Treasury Department cannot simply freeze a Muslim charity's assets now, and ask questions later.

Challenging Unconstitutional Expansion of Government Powers in the PATRIOT Act

In 2006, Congress reauthorized the PATRIOT Act without fixing the law's most egregious flaws. The ACLU continues to challenge two provisions in particular: 1) the ideological exclusion provision, which denies visas to foreign nationals who disagree with U.S. policy, and 2) the National Security Letter (NSL) provision, which allows the FBI to demand records purportedly related to investigations of terrorist activity, and to gag the recipients of these records from speaking about the demand. We have won great victories in both cases. First, following our successful litigation, the Obama administration ended the exclusion of two prominent foreign scholars who were barred from the U.S. by the Bush administration. Second, our litigation spurred the FBI to lift the gag order that prevented our client, Nicholas Merrill, from revealing his identity as the "John Doe" who successfully challenged the constitutionality of the FBI's NSL powers. Six years later, he can finally speak out to the press and the public about the abuses fostered by NSLs.

Stranded Overseas

The U.S. government's "No-Fly" list has had a huge impact on people's lives—including their ability to perform their jobs, see their families and, in the case of U.S. citizens, to return home to the United States from abroad. One of our clients, Ayman Latif, is a U.S. citizen and disabled Marine veteran living in Egypt who has been barred from flying to the U.S. He cannot visit family and could not take a required Veterans' Administration disability evaluation, which has resulted in a drastic reduction in his monthly benefits from \$899 to \$293.

Human Rights

The ACLU's Human Rights Project works to ensure that the U.S. government complies with universal human rights principles in addition to the U.S. Constitution. We use human rights strategies to complement existing ACLU advocacy—issuing human rights reports, advocating before international human rights bodies, and bringing international law claims in U.S. courts.

Seeking Accountability

Conforming the U.S. national security agenda to human rights norms is a top priority for the ACLU. We seek to generate international pressure on the U.S. government to halt inhumane practices by advocating before the United Nations (UN) and other human rights bodies. The U.S. is increasingly isolated in its failure to reckon with the legacy of the Bush administration's torture program. For example, in May 2010, Australia moved toward establishing accountability for its role in facilitating—at U.S. request—the torture and rendition of an Australian citizen. In July, the U.K. announced a plan to investigate its own com-

licity in U.S. torture and to compensate torture survivors if their claims are substantiated. We have been working to leverage these efforts for U.S. accountability.

Preserving the Rule of Law

We have thus far held the Obama administration to its crucial and much-contested promise to restore the rule of law by launching civilian trials of the so-called high-value detainees at Guantánamo. At the same time, we have served as highly vocal witnesses and critics of ongoing military commission hearings, steadfastly attending hearings at Guantánamo and blogging about the kangaroo court nature of the proceedings.

Protecting Muslim-American Charitable Giving

We have also generated enormous goodwill from Muslim-American groups with a report and advocacy documenting the unconstitutional impact of “material support for terrorism” laws on Muslim-American charitable giving. (The U.S. designation of particular Muslim charities as “terrorist” is applied retroactively, making all giving risky.) Last year’s headline-generating report on this issue became the basis this year for a hearing before the House Financial Services Committee. We are working with Rep. Keith Ellison on remedial legislation, the only possible solution given the U.S. Supreme Court’s unfortunate decision this past term that the First Amendment does not shield humanitarian groups from criminal prosecution under the material support statute even when they simply provide “expert advice and assistance” regarding human rights compliance and peaceful conflict resolution to designated terrorist organizations.

Advocating for a Domestic Human Rights Agenda

The ACLU also uses human rights litigation, documentation reports, and international advocacy to promote our domestic agenda.

For example, the ACLU is a leader in the Campaign for a New Domestic Human Rights Agenda, a national coalition pressing to integrate human rights norms into the operations of federal, state, and local governments. We have been meeting with the Obama administration to advocate the issuance of an Executive Order to revitalize the federal Interagency Working Group on Human Rights. In December 2009, we submitted testimony to the Senate Judiciary Committee’s historic hearing on the domestic implementation of human rights treaties. Praised as exemplary, our testimony provided detailed recommendations for making human rights treaties legally enforceable in the U.S.

Confronting Human Trafficking

In February 2010, our *Sabbithi* lawsuit was allowed to move forward. We represent three Indian women brought to this country by a Kuwaiti diplomat and his wife under false pretenses, each held against her will, abused, and forced to work as a domestic servant until she escaped, in fear for her life. The suit charges the country of Kuwait, the diplomat, and his wife with trafficking, among other charges. We are in the process of seeking to bring back into the case the individual defendants, who were initially dismissed due to diplomatic immunity. As they are no longer sitting diplomats, we contend that full diplomatic immunity should not apply.

In another case where we serve as co-counsel with other groups, we also represent over five hundred guestworkers from India brought to this country under false pretenses and abused.

We are working to have our clients certified as a class; should we secure certification, the case will be the largest labor trafficking case in U.S. history.

Securing Redress for Victims of Domestic Violence

We expect a decision soon from the Inter-American Commission on Human Rights (IACHR) in a high-profile case that has enormous implications regarding the obligation of government in providing protection to survivors of domestic violence. Jessica Gonzales is a survivor of domestic violence whose three young daughters were kidnapped by her ex-husband and subsequently murdered after the police refused to respond adequately to her pleas to enforce an order of protection and arrest him. Ms. Gonzales' case demanding that the police be held accountable made it all the way to the Supreme Court where, after winning in the lower courts, it was dismissed. We filed a petition on Ms. Gonzales' behalf with the IACHR—the first ever individual complaint by a victim of domestic violence against the U.S. for international human rights violations. Subsequently, the Commission ruled the case admissible and has held two hearings at which Ms. Gonzales testified. The Commission will now issue a decision as to whether Ms. Gonzales' and her children's human rights were violated. With our support, Ms. Gonzales and all victims of domestic violence may pursue the highest levels of legal recourse when their governments fail to protect them.

Spotlighting Abuses of Youth

Following up on our 2008 human rights report on both the treatment of child soldiers and the military recruitment of juveniles, we sought to bring U.S. policy into compliance with international law. In January 2010, when the U.S. released its first periodic report to the U.N. Committee on the Rights of the Child, we publicly welcomed U.S. engagement but strongly criticized ongoing failures, including U.S. delays providing the Red Cross with access to juvenile detainees. And with regard to abusive military recruitment of U.S. youth, in February, with our help, the ACLU of Georgia and the American Friends Service Committee used our human rights research to introduce a model statewide resolution to prohibit abusive military recruitment.

Speech, Privacy, and Technology

*Through the ACLU's Speech, Privacy and Technology Project, we aim to protect and expand the freedoms of expression, association, and inquiry; expand the right to privacy and increase the control that individuals have over their personal information; and ensure that civil liberties are enhanced rather than compromised by new advances in science and technology. The ACLU has been a leader on these issues for decades—curtailing government restrictions on James Joyce's *Ulysses* and the Pentagon Papers, for example, striking down attempts to censor the Internet in the 1990s, and challenging PATRIOT Act surveillance provisions that severely threaten personal privacy. We work to ensure that our constitutional rights to privacy and freedom are not eroded by the government or by corporations in an era of rapidly advancing technology.*

Protecting Freedom of Speech

The ACLU has led the fight for free speech since the end of the First World War, when the battle over the First Amendment began, and continues fighting to maintain and expand free speech rights in the era of the Internet and high technology. For example, we spent ten years tirelessly litigating a challenge to the Child Online Protection Act (a federal law that criminalizes constitutionally protected speech on the Internet)—a landmark case that we finally won in 2009. We also won a settlement against two Tennessee school districts that had

Addressing the Plight of Immigrants with Mental Disabilities

In August 2010, together with the ACLU of Southern California and other groups, we filed the first class action lawsuit to establish the right to appointed counsel for detained individuals with serious mental disabilities who face deportation. The suit follows directly from a July ACLU/Human Rights Watch report spotlighting the problem: about 2 to 5 percent of immigration detainees are thought to have a mental disability, according to U.S. government estimates. Some of these people have disabilities so severe that they do not know their own names or understand that deportation means removal from the country.

blocked access to all websites that presented positive information about LGBT people, but had allowed access to anti-gay websites. We are now pursuing a suit challenging 28 libraries in Washington for refusing to temporarily disable at adult patrons' request a software filter on public computers—a filter that has blocked such websites as the Seattle Women's Jazz Orchestra website and YouTube. We also stand up for people who are unjustly punished for speaking out. We are representing Morris Davis, a former chief Guantánamo prosecutor,

who was fired from his government job because of his public writings concerning the military commissions. We have filed suit to restore his rights and get his job back. And the ACLU protects the people's right to peacefully protest. For example, we currently represent New Mexico residents and advocacy organizations that were forced to stand more than 150 yards away from a presidential fundraiser event in 2007, although a separate group of people holding a banner reading "God Bless George Bush!" was allowed to stand only a few feet from the site.

Protecting Public Access to Information

Freedom of expression protects not only the right to free speech, but also the right to freely access information. The ACLU is on the cutting edge of legal theory in this area; for example, we are using the First Amendment to prevent the privatization of knowledge. In 2009, together with the Public Patent Foundation, we filed a first-of-its-kind lawsuit charging that patents on two human genes associated with breast and ovarian cancer are unconstitutional and should be invalidated. Because Myriad Genetics holds the patent on the BRCA genes, Myriad's lab is the only place in the country where diagnostic testing can be performed. Myriad's monopoly on the BRCA genes makes it impossible for women to use other tests or to get a second opinion about their results, and allows Myriad to charge an exceptionally high rate for its tests—more than \$3,000, which is too expensive for many women to afford, including our clients. Our suit has received significant favorable media coverage, starting with the exclusive stories we negotiated with the *New York Times* and NBC's *The Today Show*. While this lawsuit proceeds through the courts, we are also bringing the power of our ACLU membership to the cause—sending messages to Congress demanding that the issuance of gene patents be halted.

Information Denied

Although library Internet filters are meant to protect children from viewing inappropriate material, they often block completely innocuous sites from being seen by all library patrons, thereby violating adults' First Amendment rights. For example, a Washington library policy prevented our client Sarah Bradburn from researching an academic assignment about youth tobacco usage while studying at Eastern Washington University to become a drug and alcohol counselor.

Standing Up to Big Brother

With the advent of powerful cameras, sensors, satellites, and other technologies, the kind of surveillance society George Orwell warned against in his novel 1984 is now technologically possible. The ACLU is a leader in fighting to ensure that this doesn't happen—that technology is used to empower individuals and shed light on government, rather than being used to shed light on individuals' private lives.

We are fighting to make sure that long-established freedoms don't get eroded when they move online. For example, we are a leader in the Digital Due Process coalition that seeks to update the Electronic Communication Privacy Act (ECPA), the law that is meant to maintain Americans' privacy online. ECPA was passed in 1986, when there was no World Wide Web and the only sources for "location information" were road atlases and gas stations. Our laws have not kept pace with technology. Private companies and the government can now track people's locations through their cell phones and laptops, and collect people's personal information through their email and social networking sites—all, they claim, without a warrant. We are also litigating under FOIA to obtain records

concerning the government's warrantless tracking of individuals' locations through cell phone signals and suspicionless searches of travelers' laptops by Customs and Border Patrol personnel.

The ACLU continues to advocate on pressing privacy issues such as the government's creation of "fusion centers" meant to increase information-sharing between federal, state, and local officials; the use of full-body scanners at airports; the use of DNA evidence in criminal trials; the pervasive use of surveillance cameras; and proposals to institute a national ID card. We have led the public fight against Kafkaesque watchlists that trap innocent people and provide no way to get off the list. And, we have created research reports and other advocacy materials to educate the public and the media and to frame policy debates in Washington. ■

CENTER FOR JUSTICE

The ACLU Center for Justice works to reform our nation's bloated and broken criminal justice system. The center seeks to address three aspects of the system. First, the "front end," which begins with an individual's very first point of contact with police or other authorities through to the sentencing phase. The "front end" includes criminal justice law and policies that result in contact with the system. We are especially challenging current drug policy, curbing governmental abuses of power, and reducing the number of people entering prison. Second, we address the "back end" of the system, which begins with a person's entry into prison post-sentencing. Here, we focus on ensuring humane treatment for the roughly two million people behind bars, as well as on shrinking the current prison population. Third, we seek an end to the death penalty; we work to abolish—and, until we can do that, meaningfully reform—this country's barbaric use of the death penalty.

Criminal Law Reform

The newly created Criminal Law Reform Project of the ACLU advocates for reform of the criminal justice system in general and drug laws in particular, reduction of the number of people entering the system, and protection of the constitutional and human rights of those in the system. Building on our history of addressing drug law reform, our work maintains a focus on ending punitive drug policies in recognition of the fact that the nation's drug policies have largely driven the crisis of over-incarceration in the U.S. However, drug law reform cannot happen in a vacuum; it requires reform of many aspects of the criminal justice system that may not apply solely to drug offenses. Current priorities include: reducing reliance on incarceration, with a focus on decriminalizing drug offenses and shortening sentencing schemes overall;

reducing racial disparity in the criminal justice system, including challenging selective enforcement practices; and challenging police and prosecutorial misconduct and abuses of power.

Sentencing Reform

In 1991, the U.S. Sentencing Commission (USSC) delivered a report to Congress denouncing mandatory minimum sentences and calling for their abolition. The report gathered widespread support from policymakers, judges, and practitioners. But in the years since the report, Congress did the exact opposite, increasing the number and length of mandatory minimum sentences. One of the most notorious instances occurred when Congress passed legislation that established the infamous 100-to-1 disparity between possession of crack cocaine and powder cocaine. Until August 2010, possessing or dealing five grams of crack cocaine (the weight of two pennies) resulted in the same five-year mandatory minimum

Unjustly Sentenced

Fleeing a physically abusive relationship, young mother Hamedah Hasan sought refuge with her cousin. His price: running errands for his crack cocaine business. Despite Hasan's peripheral involvement in a first time, non-violent crack cocaine conspiracy offense, she was sentenced to life in prison. Though Hasan's sentence has since been reduced from life to 27 years, she still has 10 years left to go—behind bars, away from her children and grandchildren. Had she been convicted for the same offense with powder cocaine, she today would be a free woman. Earlier this year, the ACLU filed a petition asking President Obama to commute Hasan's sentence, an action even her sentencing judge supports, saying "justice truly cries out for relief."

sentence as dealing 500 grams of powder cocaine (over a pound)

These mandatory minimums contributed to disproportionately severe sentences and prison overcrowding because low-level, nonviolent, often first-time drug offenders were sentenced to jail time instead of to drug treatment programs. This diversion of government resources could have been used for far more effective prevention and treatment programs that would not have destroyed families in the process. The sentencing disparity also exacerbated gross racial inequality in the prison system, since crack arrestees were disproportionately black.

The ACLU has long advocated for the abolition of mandatory minimums, which generate unnecessarily harsh sentences, tie judges' hands in considering individual circumstances, create racial disparities in sentencing, and empower prosecutors to force defendants to bargain away their constitutional rights. We are finally

seeing movement on this issue, including recent passage of the Fair Sentencing Act—which greatly reduces the crack/powder disparity and eliminates mandatory minimums for mere possession—and approval of a House bill that would create a bipartisan commission to explore ways to make the system more just. Congress has also mandated that the USSC provide a new report on mandatory minimums by October 2010. The ACLU testified to the USSC, calling on it to recommend the abolition of mandatory minimum sentences.

Seventeen years ago, the ACLU's Washington Legislative Office convened the first national conference on the 100:1 crack/powder sentencing disparity, bringing together scientists, defense attorneys, affected families, criminologists, members of Congress, and civil rights groups. Now, after years of advocacy, we are witness to major reform.

After passage in both the Senate and House, President Obama recently signed the Fair Sentencing Act, which vastly reduces the infamous crack sentencing disparity to a ratio of 18-to-1, and eliminates the five-year mandatory minimum sentence for possession of crack. The ACLU is committed to eliminating the disparity completely, as the 18-to-1 ratio has no basis in science. That said the bill will nonetheless make important improvements in the lives of many people who would have otherwise been locked away for years on end.

Medical Marijuana Law: A Less Painful Federal Stance

The ACLU has long defended the decriminalization of marijuana and its medical use. Despite an increasing number of individual states legalizing it within their own borders, the federal government continues to oppose even

prescriptive access. The ACLU recently represented medical marijuana patients in a challenge of California’s medical marijuana law by two counties. We asked the Supreme Court to decline the counties’ appeal and leave intact the rulings of California’s own courts, which permit the prescriptive use of marijuana. Not only did the Supreme Court refuse the case—effectively leaving California’s medical marijuana laws intact despite their conflict with federal law—but eight months later, Attorney General Holder provided an even bigger victory.

The Attorney General introduced new guidelines for federal prosecutors in the 14 states permitting medical marijuana, noting that “It will not be a priority to use federal resources to prosecute patients with serious illnesses or their caregivers who are complying with state laws on medical marijuana.” In other words, these prosecutors should focus on serious crimes instead of needlessly arresting seriously ill patients and their caregivers.

Prisoners’ Rights

The National Prison Project of the ACLU contributes to the reform of the criminal justice system by advocating for the rights of the 2 million people behind bars and for alternatives to confinement in order to reduce America’s prison population. We are the only national organization litigating for the rights of prisoners, including challenging unjust conditions of confinement, abusive treatment, and unconstitutional restrictions of the rights of incarcerated people.

Cancer Patient Fired

Walmart fired Joseph Casias, a legal, registered medical marijuana patient in Michigan, after a drug test. The 30-year-old married father of two takes marijuana on the recommendation of his oncologist to help relieve the pain of sinus cancer and an inoperable brain tumor the size of a softball. Casias had abided by Michigan’s law, never using marijuana while on the job, nor working under its influence. In fact, Casias excelled at his job, quickly rising to a managerial role and becoming Associate of the Year in 2008. Walmart, however, violated the same law, which explicitly states that medical marijuana patients “shall not be subject to ... [any] penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business.” The ACLU has sued Walmart on behalf of Casias, an action likely to have far-reaching national impact as the sheer number of similarly-situated patients becomes more apparent.

Exposing Prisoner Abuse

We work to expose and end prison practices and conditions so extreme that they amount to torture and sometimes tragically result in death. These abuses include overcrowding, inadequate medical and mental health care, isolated confinement and sensory deprivation, flagrant brutality, and all manner of staff misconduct. For example, we recently reached an excellent settlement in our challenge to conditions at Wisconsin’s maximum security women’s prison. Previously, Taycheedah Correctional Facility was one of the few state prisons in the nation that did not require nurses or similarly trained medical personnel

to distribute medications; women with chronic illnesses were often not given medication in a timely manner or sometimes given incorrect dosages. In fact, the state's own expert witness described health care at Taycheedah as a system "designed to let people 'fall through the cracks.'" The settlement's terms include construction of dedicated mental health program space at the prison, as well as construction of a separate facility for women who require inpatient psychiatric services—a major victory for some of Wisconsin's most vulnerable women.

The ACLU has also intervened in a tragic case in Montana, where an imprisoned, mentally ill teenager has been subjected to abuse so terrible that he has twice tried to kill himself. "Robert Doe" has a history of childhood physical and mental abuse and has been diagnosed with post-traumatic stress disorder and other mental illnesses. Since the beginning of his imprisonment in Montana in 2008, he has spent nearly half of his time in solitary confinement and endured abusive treatment, including Taser, pepper spray, and being stripped naked in view of other inmates.

The ACLU filed a lawsuit in December 2009 to get Robert out of Montana State Prison immediately and into a mental health treatment center, but we were rebuffed by the state, which believes Robert is being appropriately treated. In July 2010, we succeeded in getting him into a state hospital temporarily and are now working on a permanent solution. Without help, Robert will likely develop antisocial personality disorder and be imprisoned the rest of his life or else commit suicide in prison.

Removing Restrictions to Prisoners' Rights

For decades, the ACLU has fought discrimination against prisoners with HIV, which often takes the form of segregation in housing and restricted access to prison jobs and other rehabilitative programs based solely on HIV status. Public and correctional health experts agree there is no medical basis for these restrictions, which often lead to longer sentences for prisoners with HIV.

Inhumane Conditions at the Nation's Largest Jail

In recent years, the ACLU successfully sued on behalf of prisoners in the Los Angeles County Jail, the largest in the nation. The jail is so overcrowded that perfectly healthy prisoners are developing mental illness, and, after touring the facility, a federal judge concluded that conditions were "not consistent with basic values" and "should not be permitted to exist." The county has since stalled in implementing reforms and we are responding with litigation. Moreover, in May 2010, we released a new report that describes in detail the dangerous conditions to much fanfare. The report's release was covered by the *Los Angeles Times* and numerous other media outlets. Our media outreach continues to be a crucial point of leverage in this case.

In April 2010, we published a joint report with Human Rights Watch, *Sentenced to Stigma*, on the human rights implications of discrimination against prisoners with HIV in the South, where a handful of antiquated policies remain. In a major victory, prompted in part by this report as well as by our advocacy, the Mississippi Department of Corrections (MDOC) has agreed to stop segregating its prisoners based on HIV status and to

begin including this population in new kinds of jobs, training programs, and other services. Since 1987, MDOC had permanently housed all male prisoners with HIV in a segregated unit at the Mississippi State Penitentiary, the state's highest security prison. As a result, prisoners with HIV were faced with unjustified isolation and marginalization and were at risk of violence at the hands of other prisoners

Capital Punishment

The United States is the only advanced Western democracy that does not view capital punishment as a profound human rights violation and a frightening abuse of governmental power. Virtually all the people currently on death rows are poor, many are mentally disabled, more than 40 percent are African-American, and a disproportionate number are Native American, Latino, and Asian. Through a combination of litigation, public education, and legislative advocacy, the ACLU's Capital Punishment Project seeks to protect and, where possible, expand the rights of capital defendants. We also educate courts and the public about the unfairness and arbitrariness of our nation's death machinery.

Challenging Execution of Severely Mentally Ill Persons

The ACLU believes that applying the death penalty to individuals suffering from serious mental illnesses is at odds with contemporary standards of decency and violates the Eighth Amendment's prohibition on cruel and unusual punishment. We represent Alabama death row inmate Lam Luong, the seriously mentally ill son of a black American soldier and Vietnamese mother, who had been shunned, ostracized, and denied schooling during his childhood in

Vietnam. At the time of his crime, Mr. Luong—unemployed in the wake of Katrina's devastation of the shrimp industry—suffered from major depressive disorder, and had fallen back on severe drug and alcohol abuse as coping mechanisms. Our investigation has revealed multiple profound problems in his extraordinarily high-profile case, including the failure to change the venue despite a flood of prejudicial pretrial publicity, improper jury instructions, and the likely tainting of the jury pool by several potential jurors who called for Mr. Luong's execution.

In South Carolina, we successfully represented Denver Simmons, a severely mentally ill young man arrested in a mental hospital in Tennessee days after the murder of his landlord and her 13-year old son in Colleton County. The further we investigated this case, the more egregious the errors we uncovered. Key discovery documents were withheld from the defense for nearly three years, for example. A confidential mental health evaluation was improperly disclosed to the prosecution. The search of Mr. Simmons' home was conducted without a warrant. And most disturbing, Mr. Simmons clearly and unequivocally invoked his right to counsel during his first statement to police. Still, police continued to interrogate him without the presence of counsel. In September, Mr. Simmons pleaded guilty in exchange for two life sentences.

Challenging Execution of the Innocent

The ACLU works to ensure that innocent capital defendants receive the adequate representation guaranteed them by the Constitution, particularly when they are sentenced to death because of the omission of exonerating evidence or the introduction of false testimony.

We currently defend Texas death row inmate Manuel Velez, who almost certainly is innocent. Mr. Velez was convicted of the unexplained “closed-head injury” death of a one-year old child. In attempting to prove his guilt, the State relied on a purported statement by Mr. Velez in which he stated he shook the baby while playing with him. However, the State’s forensics evidence proved that the baby did not die from shaking. Police officers read Mr. Velez Miranda warnings in English and had him sign a statement written in English, although he is a native Spanish speaker, of low intelligence, and functionally illiterate in both languages.

We also continued to represent Montez Spradley on his direct appeal in the Alabama Court of Criminal Appeal. The state presented no physical evidence or eyewitness testimony connecting him to the murder, instead presenting demonstrably false testimony by the lead detective. Mr. Spradley has consistently maintained his innocence.

We also vigorously sought justice for Max Soffar, an innocent man on Texas’ death row for 28 years based on a conspicuously false confession, which the police coerced him into signing. To our deep regret, in June 2010, the Supreme Court denied certiorari.

Addressing Racism

We are currently taking advantage of a huge opportunity to spotlight racism in the imposition of death sentences and also to get railroaded African-American prisoners off North Carolina’s death row. North Carolina’s recently passed Racial Justice Act (RJA) permits capital defendants to challenge their death sentences on the ground that race was a significant factor

in the decision to seek or impose the death penalty and to use statistical evidence as proof of racial discrimination, an avenue that had previously been foreclosed.

ACLU staff have recruited potential expert witnesses and are assisting in the collection of data that will be used in a statewide study of race and the death penalty in North Carolina. This study will assist inmates to file claims, seeking new sentences of life without parole.

Working to Reform the System

The ACLU is pursuing numerous initiatives designed to promote fairer trials within the existing criminal justice system, to reform death penalty law, and to raise awareness of the inherent injustice of the death penalty. For example, we are creating tactics for voir dire (when potential jurors are examined), including defense questioning regarding consideration of mitigating factors, to ensure fair jury selection. And we have developed an innovative and crucially important Mitigation Specialists Program to provide support for under-resourced public defenders whose investigation of mitigating factors in capital defendants’ life stories is an indispensable part of any competent capital defense. ■

CENTER FOR EQUALITY

The Center for Equality aims to create an America in which every person has the access and opportunity to participate fully in all aspects of American society. The Center focuses primarily on the issues of race, immigration and voting, seeking to address the persistent discrimination and obstacles to equality that confront the most vulnerable populations, including those with disabilities. Priorities include racial profiling, an issue that has become an increasingly dangerous component of the backlash against immigrants, and the “school-to-prison pipeline,” the disciplinary practices that push young people out of school and into the criminal justice system.

Racial Justice

Committed to combating racism in all its forms, the ACLU’s Racial Justice Program uses litigation, advocacy, and public education to address issues including the push-out of young people of color from the public schools, racial profiling, and economic concerns with racialized impact. The Voting Rights Project continues to be the primary national enforcer of the Voting Rights Act, protecting the full rights of racial and language minorities to vote and be represented in government.

Confronting the “School-to-Prison Pipeline”

We will continue to pursue a major program of litigation, advocacy, and public education to spotlight the many ways young people—particularly poor youth of color—are channeled out of public schools and into the criminal justice system. We have focused especially on the over-policing of public schools and the creation of disciplinary alternative schools that function almost as juvenile detention facilities.

Our important and pioneering work in this area, widely covered by the media, has contributed to a palpable shift in public opinion. Indeed, in November 2009, a *New York Times* editorial cited *Criminalizing the Classroom*, a pioneering report we wrote in partnership with the New York Civil Liberties Union (NYCLU), in its call for national and New York City reform. It is no exaggeration to say that the ACLU, in concert with ACLU affiliates, has brought the school-to-prison pipeline to national consciousness.

We also have pursued a series of lawsuits in a Mississippi community where the police and school officials appear to target black youth.

In April 2009, we brought a federal civil rights suit against police officers and school officials in DeSoto County, Mississippi, charging them with assaulting and racially discriminating against black schoolchildren, whom police held captive on a school bus, physically attacked, and threatened to shoot between the eyes.

New Hall Monitors: Armed and Dangerous

In January 2010, we brought a long-planned lawsuit that grew out of our initial research and report in New York. With the NYCLU, we challenged abuses by police and school safety officers in New York City public schools. Among our plaintiffs is a girl who, at age eleven, was handcuffed and perp-walked into a police precinct for doing nothing more than doodling on a desk in erasable ink. The litigation has received widespread publicity and was the subject of a March 2010 *New York Times* op-ed by Bob Herbert, “Cops vs. Kids.” We are currently in discovery and will soon seek class action certification; trial is not expected to begin until 2012.

Although we reached a satisfactory confidential settlement of the case in August 2009, we soon filed two new suits against the same school district on behalf of innocent students whose movements to the rhythm of music was deemed gang-related activity—in September, on behalf of a student expelled because an illegal search of his cell phone showed photos of himself dancing in the bathroom, and in October, on behalf of a student expelled after singing to himself and bopping his head during a school assembly. Both students are black; the second was a plaintiff in our first suit against the district, and we believe his expulsion was retaliatory.

In March 2010, we filed a class action against Rhode Island’s run-amok truancy court system, charging that the courts threaten parents and vulnerable children—many of whom are not even truant—with fines and imprisonment in violation of due process protections. The system also disproportionately affects children

with severe or chronic illness, who are compelled to attend school against doctors’ orders. We recently argued against a motion to dismiss.

Ending Racial Profiling

Racial profiling takes on new forms with changing times. Following 9/11, we extended our racial profiling work to encompass new law enforcement and private security practices that disproportionately target Arabs and Muslims. We aggressively contested the mass round-ups of Muslims post-9/11, and continue to challenge racial profiling by airlines and transportation officials. And, following the passage of SB1070, Arizona’s radical new anti-immigrant law, we have dramatically stepped up our racial profiling public education work, issuing a new national “Know Your Rights” card, a mini-brochure explaining what to do if you are stopped by police, immigration agents, or the FBI.

As part of our ongoing efforts to spotlight persistent injustice in new and effective ways, we continue to leverage international human rights laws and venues to gain domestic traction on racial profiling. In March 2010, we testified before the Congressional Helsinki Commission about racial profiling. We continue to flag it as violating U.S. treaty obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, commenting on CNN’s blog in May 2010 about how Arizona’s SB1070 violates international law.

Enforcing the Right to Vote

Forty-five years after the Voting Rights Act was first enacted, racial and language minorities continue to confront barriers to full electoral participation—and we continue to lead the

battle to overcome those barriers. A growing number of states and localities long subject to federal review now claim that federal review is unnecessary because, they assert, discrimination against minority voters no longer exists; we have recently intervened to challenge such claims by the state of Georgia and Alabama's Shelby County. We have also aggressively challenged illegal voter purge programs that disenfranchise the most transient individuals—typically the poor, minorities, and students—and in June 2010, won an agreement from Michigan to halt its two voter purge programs. Going forward, we will seek to protect minority voting rights as the 2010 census triggers widespread redistricting.

The voting rights of American Indians been a longstanding focus of our work, and we brought this issue to international attention, submitting a detailed report to the UN Forum on Minorities and Effective Political Participation at its Geneva meeting in November 2009. We provided an historical overview of the systemic discrimination against American Indians that limits their ability to participate in local, state and national elections, and highlighted ACLU litigation challenging unlawful election practices on behalf of American Indians in five western states: Colorado, Montana, Nebraska, South Dakota, and Wyoming. The work continues: in April 2010, we won a federal court decision striking down “at-large” voting in Fremont County, Wyoming, which for years has kept American Indians—who comprise one-fifth of the county's population—from securing a seat on the five member city commission. We will continue to be involved as a remedy is fashioned.

Immigrants' Rights

The ACLU was founded to defend immigrants' rights during the Palmer Raids in 1920, and has continued to litigate and advocate on behalf of immigrants ever since. In 1987, the ACLU founded the Immigrants' Rights Project to expand and enhance its work on behalf of non-citizens. For over twenty years, we have been at the forefront of virtually every major legal struggle for immigrants' rights. From offices in New York and San Francisco, the Immigrants' Rights Project now conducts the largest litigation program in the United States dedicated to enforcing the constitutional rights of immigrants.

Immigration Enforcement: Challenging Ruthless Crackdowns

There has been an explosion in immigration enforcement programs—from federal campaigns (such as the “287(g)” program that grants state and local law enforcement agencies federal immigration enforcement authority), to local workplace raids, to statewide laws, such as Arizona's recently-enacted SB1070. The ACLU works to monitor and challenge improper immigration enforcement measures, filing litigation and tracking raids across the country. For example, we recently led a group of civil rights organizations in bringing critical litigation challenging Arizona's SB1070 racial profiling law, which has attracted widespread press attention and condemnation from across the political spectrum.

Anti-Immigrant State and Local Measures: Tamping Down on Freelance Racism

Anti-immigrant groups are increasingly using aggressive organizing and publicity efforts to promote state laws and local ordinances that—

whether by design or not—demonize immigrants as causing economic, social, and law enforcement ills. These ordinances invite discrimination against anyone who speaks with an accent or looks “foreign,” and prevent innocent people from finding employment or housing. The ACLU recently won an important victory when a court blocked the enforcement of a harsh housing ordinance in Farmers Branch, Texas, in response to our litigation. This victory continues our uninterrupted winning streak in our legal battles against anti-immigrant housing ordinances. Together with allies, we have challenged ordinances of this type in New Jersey, Pennsylvania, California, Missouri, and Texas, and the result in every case has been invalidation or repeal.

Immigration Detention: Caught Between Limbo and Hell

One result of increased enforcement of immigration status is the increase in the number of people being detained in conditions that violate basic human rights standards. We litigate the inhumane conditions of confinement in immigration detention centers, where thousands of immigrants (including asylum-seekers and families) are being denied medical care, housed in overcrowded cells, and even strip-searched. These inhumane conditions have led to sickness and even death. The thousands of documents unearthed by our litigation led to a series of *New York Times* articles. In January 2010, in a front page story, the Times reported on one particularly brutal case in which government officials—at least one of whom has remained in place in the Obama administration—intentionally tried to cover up government misconduct.

The High Cost of Prolonged Detention

The ACLU’s detention work makes a real difference in immigrants’ lives. For example, our client Alexander Alli—a lawful permanent resident from Ghana who has lived in the U.S. for 20 years and whose wife and children are U.S. citizens—was held in immigration detention for a year and half without being afforded a hearing to determine whether his detention was justified. We filed a lawsuit challenging his prolonged detention, and ultimately secured his release. The judge’s ruling stated that such prolonged mandatory detention raises “serious constitutional problems.”

The ACLU has also been at the forefront of litigation on behalf of immigrants who are detained for months—or even several years—without a hearing, as they await a determination on their immigration status. We have obtained precedent-setting decisions in the Ninth Circuit confirming the right to a bond hearing. As a result of these decisions, hundreds (if not thousands) of detainees throughout California and the rest of the Ninth Circuit are now entitled to bond hearings.

Judicial Review: Giving Immigrants Their Day in Court

The ACLU systematically litigates in courts around the country to preserve the core right to judicial review enshrined in the Supreme Court victory we won in *INS v. St. Cyr*, which established immigrants’ right to challenge in court the legality of their deportation. For example, we have filed amicus briefs in cases where immigrants missed their appeal deadlines for a variety of reasons (for example, the jail library contained insufficient information on the process for appealing a deportation order) and were then denied any further review.

Most recently, we filed an amicus brief before the Supreme Court in a case that could have resulted in blocking certain immigrants from judicial review, even when an immigration judge's ruling was based on a blatant factual error. Our analysis was ultimately adopted by the Court—preserving access to the courts for potentially thousands of immigrants. As experts on judicial review, we also assist and advise immigration lawyers around the country, develop new legal strategies, and have even been appointed by federal appellate courts to brief this issue. ■

CENTER FOR LIBERTY

The Center for Liberty is dedicated to the principle that we are all entitled to determine the course of our lives based on who we are and what we believe—free from unreasonable government constraint and baseless stereotypes. In particular, we work to enforce the separation of church and state; to advance the rights of lesbian, gay, bisexual and transgender (LGBT) people; to eliminate discrimination against people with HIV; to protect individuals' freedom to make their own reproductive decisions; and to eliminate the gender bias faced by women.

By combining the ACLU's leadership in advocating for privacy, equality, and sexual liberty with our expertise in religious freedom, the Center for Liberty is able to bring a unique, nuanced, and compelling perspective to the fight to protect our personal freedoms and beliefs.

Freedom of Religion and Belief

The ACLU's Program on Freedom of Religion and Belief advances religious liberty: the right to practice religion, or to practice no religion at all without government interference. As one of America's foremost defenders of religious liberty, the ACLU combines lawsuits, legislative work, and a determined public education effort to strengthen understanding of the risks to liberty when our government becomes an advocate for a given set of religious beliefs.

Preventing Government Endorsement or Funding of Religion

In March 2010, the Supreme Court let stand two major ACLU federal appellate victories: our Second Circuit win challenging religious displays on the postal counter in the U.S. Post Office operated under contract by the Full Gospel Interdenominational Church in

Manchester, Connecticut, and our Tenth Circuit victory against a government-sponsored Ten Commandments monument placed on an Oklahoma county courthouse lawn. Another religious display case continues. In April 2010, the Supreme Court unfortunately reversed our Ninth Circuit win in *Salazar v. Buono*, the case concerning a cross in the Mojave National Preserve, ruling that the trial court used the wrong legal standard. We will return to the trial court again to argue that the cross is a sectarian symbol that favors Christianity.

We also tackle the intrusion of government funded religion in reproductive rights. In February 2010, we sued to obtain information about U.S.-funded proselytizing in overseas abstinence-until-marriage programs. Our suit follows up on a 2009 report by the Inspector General's Office of the United States Agency for International Development (USAID), documenting the agency's history of funding unconstitutional religious activities.

We celebrated a significant victory in March 2010, when a Massachusetts federal district court ruled that our suit against a religiously-restricted federal grant may go forward. It challenges a U.S. Department of Health and Human Services' award of millions of dollars to the United States Conference of Catholic Bishops (USCCB) for the purpose of providing grants to organizations that provide direct services to human trafficking victims, many of whom have been coerced into prostitution. As the government knows, USCCB, based on its religious beliefs, prohibits grantees from providing contraceptive or abortion services or referrals, leaving a tremendous gap in needed services for this population.

Ensuring Public Schools Practice Instruction, not Indoctrination

Removing the unconstitutional (but surprisingly common) intrusion of religion into public schools remains an ACLU focus. In May 2010, for example, we won a headline-generating victory when a federal judge ruled against public school graduation ceremonies at a Christian mega-church in Enfield, Connecticut, full of conspicuous Christian symbols, including a mammoth Christian cross, a multi-story cross in the stained glass windows, and banners reading "Jesus Christ is Lord" and "I am GOD." The school board originally voted not to hold the graduation ceremonies at the church, reversing course only after heavy lobbying by the Family Institute of Connecticut, a religious-right group intent on using government bodies to promote religious viewpoints.

We won the latest round in a longstanding battle against public school administrators and teachers in Santa Rosa, Florida, who have

repeatedly and openly flouted a 2009 consent decree requiring them to stop all proselytizing and religious activities in the public schools. The high school principal has publicly vowed to "save" students who have not declared Jesus as their savior, for example, and describes such students as being recognizable by their "hollow eyes." In February 2010, the judge overseeing the consent decree ruled against an association of Christian teachers that sought to overturn the order.

Protecting the Free Exercise of Religion

The ACLU remains dedicated to ensuring that the free exercise clause in the First Amendment is applied to all expressions of faith in America. For example, in July 2010, after years of litigation, a federal appeals court upheld an ACLU victory on behalf of a Texas boy who sought to be allowed to wear his hair in two long braids at school in observance of his American Indian religious heritage. The school district had placed the kindergarten student on in-school suspension—the harshest form of punishment state law permits for a child his age—for noncompliance with its dress code

We also restored the right of an ordained Pentecostal minister, Howard Thompson, Jr., to preach to his fellow prisoners, securing a settlement with the New Jersey State Prison (NJSP) in November 2009. Incarcerated at NJSP since 1986, Thompson had preached at weekly worship services and taught bible study classes for more than a decade when, in 2007, without warning or justification, NJSP officials banned prisoners from preaching, even when done under the supervision of prison staff. The ban deprived Thompson's fellow prisoners of his religious instruction, which chaplain staff had previously encouraged and believed had a positive influence.

Lesbian, Gay, Bisexual, & Transgender Rights

The ACLU's LGBT Project works on multiple fronts to create an America free of discrimination based on sexual orientation and gender identity. This means an America where lesbian, gay, bisexual, and transgender people can live openly; where LGBT identities, relationships and families are respected; and where everyone can expect fair treatment on the job, in schools, and elsewhere. We also pay close attention to educating the public about LGBT issues—a crucial factor in the fight for equality.

Fighting for LGBT Families

The ACLU is committed to defending the rights of LGBT parents, not only in custody and visitation arrangements, but also by challenging discriminatory adoption and foster-parenting laws. For example, we are pursuing two high-profile lawsuits challenging restrictions on adoption and foster-parenting by gay people. In Arkansas, a trial court judge has ruled unconstitutional the state's ban on adoption and foster-parenting by unmarried couples, straight or gay. We were set to go to trial in May 2010, but the court ruled in favor of our pre-trial motion for summary judgment, essentially saying that the ban is so clearly unconstitutional under state law that no trial was needed. The state has appealed the decision. In a significant victory, Florida's 3rd District Court Appeals struck down that state's law barring gay people from adopting. In this unanimous decision the judges agreed with a November 2008 family court ruling that the law violated the Florida state constitution. We await a decision from the state as to whether it will appeal this decision to the Florida Supreme Court. We will keep up the fight if the state appeals.

Making It Official for Same-Sex Couples

The ACLU is at the forefront of legal, legislative, and public education efforts to secure marriage for same-sex couples and win legal recognition for LGBT relationships. In the past year, we participated as a friend of the court in *Perry v. Schwarzenegger*, the federal challenge to California's Prop 8, the ballot initiative that excluded same-sex couples from marriage in the state. In August 2010, we celebrated an early victory in the case when, for the first time, a federal court held that Prop 8 is unconstitutional and that there is no reason to deny same-sex couples the fairness and dignity of marriage.

In a number of states where marriage efforts are not as far along, we are fighting for domestic partnerships through litigation. In July 2010, we filed a lawsuit on behalf of seven Montana couples seeking full domestic partnerships. This is the first lawsuit seeking statewide relationship recognition to be brought in a state with a constitutional amendment banning same-sex marriage and could be a blueprint for similar work elsewhere. Montana law currently denies hospital visitation rights to same-sex couples, allowing partners to be left out of emergency medical decisions, and denied inheritance and other benefits if the other partner dies. We have also filed a lawsuit challenging Alaska's discrimination against same-sex couples with respect to access to a property tax exemption for senior citizens and disabled veterans. And our Hawaii affiliate has joined with Lambda Legal in filing a lawsuit to get full domestic partnerships after the state's governor vetoed a civil unions bill in July 2010.

Fighting Tennessee's "Paramour Clause"

Over the past several years, we have successfully challenged a unique stipulation in a Tennessee child custody order unjustly aimed at lesbian and gay parents. When our client, Angel Chandler, went to court to fight for custody of her teenage children, a trial court judge imposed a "paramour clause" in her custody agreement, preventing her from having her same-sex partner of 10 years stay the night when her children were at home. In June 2010, an appeals court rebuked the lower court for implementing the restriction, noting evidence that the paramour clause was contrary to the best interests of the children and that Chandler's partner "appears to be emotionally stable and capable of providing appropriate support and nurturing to the children and to [the Mother]." This decision serves as warning to other courts seeking to implement similar restrictions.

Ensuring the Safety of Youth in Schools

In public schools, the ACLU works to promote violence-free learning environments that encourage freedom of expression and respect for students' sexual orientation and gender identity.

In a case out of California that made major headlines, the ACLU successfully challenged a Fresno City College health professor for using the classroom to proselytize against homosexuality. We sent a demand letter in February 2010 after we heard word from students that lectures by Dr. Bradley Lopez presented religiously-based and anti-gay views as science or fact. Among other instances, Lopez once presented a slide in class listing "homosexual facts," including that homosexuality is a "biological misapplication of human sexuality" and that the "recommended treatment" is "psychological counseling" or "hormone supplements." The college is now taking action to reprimand Lopez.

Inspiring Activism Nationwide

In a case that became an enormous rallying point for activists, the ACLU successfully defended Mississippi high school student Constance McMillen's right to attend prom with her girlfriend. In March 2010, we filed a lawsuit on Constance's behalf after administrators at Itawamba Agricultural High School in Fulton denied her request to bring a female date to prom. In response, the school canceled the prom, prompting droves of media coverage and bringing new attention to the plight of LGBT students (a Facebook page we set up drew over 400,000 fans in just a few days). In July 2010, we won our lawsuit when school officials agreed, among other things, to pay Constance \$35,000 in damages and to implement a policy banning discrimination or harassment on the basis of sexual orientation and gender identity—the first such policy at a public school in Mississippi.

Reproductive Freedom

The Reproductive Freedom Project aims to foster reproductive freedom and give every woman the opportunity to build a secure, productive, and meaningful life. We employ litigation, public education, and state-level advocacy to advance reproductive rights around the country—blocking abortion restrictions, promoting contraceptive access, advocating for healthy sex education, and protecting the right to parent. For more than three decades, the Reproductive Freedom Project—in collaboration with ACLU affiliates and chapters around the country—has participated in nearly every critical reproductive rights case before the Supreme Court and in other significant federal and state cases too numerous to count.

Protecting Access to Abortion

Ever since *Roe v. Wade* legalized abortion in 1973, federal and state policymakers have been determinedly chipping away at the right by limiting access to abortion through a variety of restrictions. The ACLU challenges these restrictive laws in court—striking down abortion bans, parental involvement laws, funding restrictions requirements, and other policies meant to delay or prevent abortions. Our legal victories on the federal and state levels have made an important difference in the lives of hundreds of thousands of women around the country. We also work closely with ACLU affiliates to block hundreds of anti-choice bills every year.

Vulnerable populations are always hit hardest by abortion restrictions, so we advocate forcefully for the rights of teens, immigrants, and low-income women, preventing government interference in personal reproductive health decisions. We have also become the “go-to” organization for women in prison who are seeking abortions, and have won landmark rulings: for example, we recently secured a court ruling holding that an Arizona jail’s policy requiring women seeking abortions (and only women seeking abortions) to pre-pay transportation costs was unconstitutional—a decision protecting the estimated 2,600 women of childbearing age in state and county jails in Arizona. We have also restored Medicaid coverage for abortions in numerous states and prevented procedural restrictions that have a disproportionate impact on low-income women.

We are also investing in long-term strategies to build public support for abortion access, including innovative research to help us develop alternative ways of talking and thinking about abortion that shake off the negative associations and instead move people towards a more positive, empathetic way of thinking about abortion. We must win the hearts and minds of the public in order to ensure that the legal right to abortion stays strong in the years to come.

Sex Education: Applying Science, Not Wishful Thinking

Abstinence-only programs provide inaccurate and misleading information, reinforce gender stereotypes, marginalize LGBT youth, censor information, and in some instances use taxpayer dollars to promote religion. We have worked to halt abstinence-only programs from the very beginning—bringing the first-ever challenge to an abstinence-only program in the 1980s.

The ACLU currently works to change sex education policy at the federal, state, and local levels by advocating for comprehensive sex education—from the White House right down to local school boards—convincing policymakers to reject federal abstinence-only funding, and bringing legal challenges when abstinence-only programs use public dollars to convey overtly religious messages. ACLU affiliates are critical to our efforts to monitor policies in communities around the country, and thus make it possible to challenge programs in the courts and foster local campaigns for change at the school board or state level.

Preserving Choice Behind Bars

The ACLU routinely advocates with prison and jail officials to ensure that women receive reproductive health care, including abortion. Our work makes a difference: for example, we got a call from a federal public defender about a woman in a New Mexico state jail who had an abortion scheduled, but missed her appointment because the jail refused to transport her. After we provided the necessary materials and legal arguments, her lawyer was able to convince a judge to release her so she could get the abortion care she needed.

We believe that enacting long-term change in sex education policies will ultimately require a shift in thinking. RFP aims to engender this shift by conducting innovative research that will provide a new model for how we think about sex—one that fosters a view of sexuality as a core part of who we are.

Promoting Contraceptive Access

The ACLU works to break down the many barriers women face in accessing contraception, essential to a woman's ability to shape her own future and participate fully in society. We litigate to ensure contraceptive access, bringing the ACLU's unique expertise in balancing reproductive freedom with religious liberty; for example, we are suing the federal government for allowing its religious contractors to deny contraception and other services to trafficking victims. And we work with ACLU affiliates to press for local and state laws and policies that provide contraceptive equity and access to

emergency contraception. We recently sent a letter to Walgreens' headquarters in response to complaints that stores in Texas and Mississippi were refusing to sell emergency contraception (EC) to men. Walgreens responded by sending a memo to all stores nationwide clarifying that EC should be sold to both men and women.

Keeping Uncle Sam Out of Pregnancy and Parenting

We also have a longstanding history supporting the rights of women who want to continue pregnancies. We challenge government scrutiny and sanctions against women for conduct during pregnancy—for example, prosecuting women for drug dependency during pregnancy. These prosecutions discourage health care and threaten women's autonomy and equality. Through our participation as a friend-of-the-court, we recently helped to get a great decision from the Kentucky Supreme Court affirming that a pregnant woman cannot be incarcerated simply because she struggles with a substance abuse problem.

Responsible Sex Education

We have helped ACLU affiliates change sex education policies in communities around the country. For example, with our assistance, a school board in Kansas made improvements to the district's sex education curriculum (impacting over 27,000 young people); a school in New Hampshire barred a harmful abstinence-only-until-marriage curriculum; and several North Carolina counties have agreed to adopt an evidence-based comprehensive sex education curriculum.

Women's Rights

Through the work of the ACLU's Women's Rights Project, we aim to ensure that all women and girls are able to lead lives of dignity free from violence and discrimination, including discrimination based on gender stereotypes.

This means an America where all women and girls have access to quality education, employment, housing, and health—regardless of race, class, income, immigration status, or involvement with the criminal justice system.

Institutional Remedies to Violence against Women

After years of work aimed at getting stronger federal protections for migrant domestic workers, we are now advocating with the State Department to ensure that domestic workers employed by foreign diplomats are protected from trafficking abuses—a major problem, as diplomats are generally shielded from criminal prosecution. The State Department now distributes, as part of the U.S. Embassy and Consulate protocol, a pamphlet that we helped to write to inform vulnerable workers who come to the U.S. of their legal rights regarding pay, discrimination, sexual harassment, health and safety, and employer retaliation. Every U.S. Embassy and Consulate throughout the world distributes the pamphlet to temporary visa holders before they leave their home countries. Domestic workers employed by diplomats are specifically advised that they have the right to an employment contract describing their work duties, work hours, days off, and pay and that their diplomat employers may not confiscate their passports or other personal property. The pamphlet also describes warning signs of human trafficking, explains how to get help, and addresses concerns about deportation.

Housing is another area in which women who are victims of violence often face discrimination. In October 2009, the ACLU succeeded in getting the Department of Housing and Urban Development (HUD) to revise a proposed rule regarding its public and assisted housing programs that would have had a devastating impact on battered immigrants and their families. HUD had published a rule outlining new requirements that would demand Social Security numbers and income verification from all people applying to its public and assisted housing programs. This requirement would

Combating Sexual Violence against Service Members

The ACLU is undertaking a special human rights documentation project concerning sexual and gender-based violence in the U.S. military; we hope this report, in turn, will spur reform for this horrific and growing problem. Our report will focus on the government's responsibility to prevent sexual and gender-based violence, and its current failure to provide access to justice for female military personnel victims. This project fills a critical gap in research on military assault, which has focused on specific incidences of assault in the military, rather than on identifying the reforms that can be made in Department of Defense policies.

have endangered untold thousands of women, particularly immigrant domestic violence victims and their children, who often lack Social Security numbers, but depend upon subsidized housing when escaping abuse. We successfully urged HUD to modify this rule so that Social Security numbers would not be required of all household members. We are relieved to have helped stop such a harsh, anti-immigrant policy from being instituted.

In a case challenging the USAID's requirement that its grantees who are engaged in humanitarian work overseas pledge not to support prostitution as a condition for receiving funding, we were surprised when the government in January 2010 appealed our initial victory. In July 2009, HHS had announced it would not appeal a 2006 decision preventing the government from implementing the mandate. We will file another friend-of-the-court brief in support of this important case this fall, focusing on the First Amendment implications of making organizations adopt certain positions in order to receive federal grants, as well as the bad public policy it creates.

Ensuring Equal Educational Opportunities

The ACLU is committed to ensuring that girls and boys are given the same educational opportunities. In recent years, many school districts throughout the U.S. have introduced single-sex education programs, often presenting them as solutions to an array of problems facing public schools. In actuality, many of the programs implemented use curricula based on shocking, antiquated gender stereotypes: teachers might be instructed to engage girls in collaborative group work, for example, while boys are encouraged to be more physically active. Our campaign challenging sex-segregated education in public

schools has met with impressive results. Recently, we successfully ended single-sex education programs in five counties in Alabama, including Mobile County—the largest in the state—by sending demand letters and Open Records Act requests; meeting with school officials and concerned parents; educating the public through community forums, multimedia, and web outreach; and filing lawsuits to put a stop to illegal single-sex programs. And we are currently in active litigation against school districts in Kentucky and Louisiana. ■

SUMMARY OF 2009 SUPREME COURT TERM LITIGATION

The ACLU brings more cases before the Supreme Court than any other non-governmental organization, and participated as counsel or friend-of-the-court in 16 cases during the 2009 term. These cases involved everything from freedom of religion to civil rights claims. Much of our participation involved the First Amendment, whose protections the ACLU has been instrumental in defining since our founding in 1920. Below is just a sample of the cases we were engaged in during the 2009 term.

Salazar v. Buono concerned the First Amendment's Establishment Clause, which prohibits the government from encouraging or promoting religion. The ACLU represented Frank Buono, who objected to a Latin cross erected by the Veterans of Foreign Wars (VFW) in the Mojave National Preserve. Buono had won an injunction directing the government to remove the cross, but rather than doing so, Congress declared the cross a National War Memorial, forbade funds to be used for its removal, and transferred the acre of land it sat on to the VFW. We challenged these Congressional actions as not complying with the spirit of the injunction. After years of legal wrangling, where we won at the district court level, a very divided Supreme Court sent the case back to the district court ordering it to use a different legal standard to determine if the land transfer is indeed a government endorsement of religion. Although we're disappointed that the Court did not simply affirm the district court's ruling, one positive outcome is that the Court did not dispute Buono's right to bring the case, so the decision does not bar private citizens from challenging the constitutionality of religious displays on government property in the future.

The ACLU filed friend-of-the-court briefs in two other major cases touching upon the Free Speech Clause of the First Amendment. *Christian Legal Society v. Martinez* involved a dispute between the University of California Hastings College of the Law and the Christian Legal Society, which had been excluding gay and lesbian students. The Court agreed with the ACLU's position that the college did not infringe upon the free speech rights of the Christian Legal Society when it insisted that the Society needed to comply with a non-discrimination policy—like every other student club—in order to receive official university recognition and funding.

In *Citizens United v. Federal Elections Commission*, we opposed the overly-broad “electioneering communications” provision of a law intended to limit contributions from corporations in elections. The poorly-written provision would have affected even nonpartisan organizations such as the ACLU, which advocates for issues but not candidates. While our objections and proposed remedies to the law were very narrow, the majority opinion of the Court ruled that the federal ban on independent campaign expenditures was unconstitutional overall.

The rights of prisoners, immigrants, and other vulnerable groups remain another longstanding priority of the ACLU, and in the 2009 Supreme Court term, we filed friend-of-the-court briefs in several significant cases, including ones focusing on the right against self-incrimination (*Berghuis v. Thompson*), impartial juries (*Berghuis v. Smith*), habeas corpus (*Holland v. Florida*), and judicial review of Board of Immigration Appeals rulings (*Kucana v. Holder*).

Unfortunately, the most significant of these cases, *Berghuis v. Thompson*, may also be the least favorable. In *Berghuis*, the accused sat silent for three hours in response to police questioning before making an allegedly uncoerced statement implicating himself in a drive-by shooting. At issue in the case were the petitioner's "Miranda rights"—whether he had invoked them by remaining silent while in custody, and whether he had waived them by subsequently speaking. In a 5-to-4 decision, the Court weakened the protections against self-incrimination articulated in *Miranda v. Arizona* (1966). In *Miranda*, the Court had fused the Fifth Amendment right to remain silent with the Sixth Amendment right to counsel, an approach echoing the friend-of-the-court brief the ACLU filed in that case. The new decision in *Berghuis* pushes the balance of power away from defendants and toward the police by requiring that defendants invoke the right to remain silent explicitly (prolonged silence or non-cooperation being insufficient) and holding that an accused's uncoerced statement implies a waiver of the right.

In *Berghuis v. Smith*, a black petitioner convicted of murder challenged the fairness of the make-up of his jury, which was entirely white. Specifically, Smith claimed that jurors had not been drawn from a fair cross-section of the community, a principle the Court has previously required. Without taking a position on the particular merits of Smith's claim, the ACLU urged the Court in a friend-of-the-court

brief to uphold the fair cross-section principle, which it implicitly did when it affirmed the Michigan Supreme Court's decision that Smith had failed to prove any policy or practice that systematically excluded black jurors. By ruling on the issue, the Court was affirming that the cross-section principle is still important, even though in this case the petitioner did not prove that the principle was violated.

Holland v. Florida concerned a death row inmate (Holland) who asked to be excused for late filing of his habeas corpus petition due to his attorney's well-documented misconduct, which included missing the habeas corpus filing deadline. The district court denied Holland's delayed petition, finding that he hadn't shown enough "due diligence" to justify missing the deadline, despite exceptional efforts to engage his attorney and repeated attempts to have the state bar and courts replace him on the case. The Court of Appeals affirmed that denial. The Supreme Court, however, agreed with the ACLU that under "extraordinary circumstances," fairness requires permitting inmates to file habeas corpus petitions after the one-year deadline, and sent the case back to the lower court to see if Holland's case involved "extraordinary circumstances" to justify an exception to the law.

The ACLU helped strike a victory for immigrants through *Kucana v. Holder*. In this case, the Court unanimously held that although Congress had stripped courts of the power to review certain immigration decisions, the law does not rule out judicial review of a motion to reopen deportation proceedings when new evidence becomes available, as it did for the asylum-seeking petitioner. The decision thus preserves access to the courts for immigrants under certain circumstances, stopping the further erosion of judicial review for the immigrant community. ■

LEADING FREEDOM FORWARD: ACLU CAMPAIGN FOR THE FUTURE

In 2010, the ACLU concluded the transformative *Leading Freedom Forward: ACLU Campaign for the Future*. This campaign is leaving an indelible mark on the organization, allowing us to almost double the size of select state-based affiliates where the need for an ACLU presence is great, but local resources are scarce. We have also increased by almost 50% our investment in the smallest 25 ACLU affiliates, allowing them to hire additional staff to meet the growing need to protect and expand civil liberties in an era of state backlash.

The Strategic Affiliate Initiative

Perhaps the most visionary and successful aspect of Leading Freedom Forward has been the Strategic Affiliate Initiative (SAI), an intensive investment made in key affiliates to build their long term capacity to advance freedom in areas of the country where civil liberties violations are especially egregious. We are pleased that an external evaluator has validated what we anticipated with the SAI: that it has positively affected the status of civil liberties within SAI states and led to positive changes in participating affiliates' practices, operations, and culture. These improvements include strategic planning, greater accountability, and better management. As a result, these affiliates are better able to defend civil liberties statewide in terms of increased case loads and a more integrated approach that includes litigation, media outreach, and advocacy. Wellspring notes the raised profile of these affiliates among non-ACLU stakeholders in their states, and increased recognition of them as key players in the struggle for civil liberties.

Momentum in Key States

During the first 48 months of the SAI we have invested more than \$8.5 million in nine affiliates, creating close to 60 positions for legal, communications, and development professionals who dedicate themselves every working day to the advancement and protection of civil liberties. These are states where challenges encompass the spectrum of civil liberties. Below are highlights of the important work thus far of the nine affiliates participating in the SAI, in order that they joined the initiative.

ACLU of Florida kicked off a public education campaign to accompany a lawsuit seeking to end the ban on adoption by gay men and lesbians in Florida, the only state whose law specifically bars it. The kick-off event—featuring *Sex and the City* star Cynthia Nixon—drew nearly 300 people on the coldest night in Miami Beach since 1974, generating international media attention. We were thrilled when, in September, Florida's 3rd District Court of Appeals struck down that state's law barring gay people from adopting. The affiliate is also tackling reproductive rights. Thanks to the nearly 10,000 emails and calls that ACLU supporters and allies made to the Governor,

the affiliate secured the Governor's veto on a bill limiting reproductive rights that was passed on the last day of the legislative session. The bill would have: a) required physicians to perform an ultrasound prior to abortions in the first trimester, and b) allowed government to dictate to businesses that receive tax credits what types of health insurance coverage they could provide to their employees, going far beyond the federal plan. It also helped defeat two other bills threatening reproductive freedom, one that would have gutted the procedure for minors seeking abortions before a judge, and one that would have given fetuses legal rights independent of the mother.

ACLU of Texas implemented a strategic plan focused on protecting civil rights among three critical populations: youth in public schools, immigrants near the southern border, and religious minorities. The affiliate launched a students' rights website, (www.youthrightstx.org), in English and Spanish, and in May 2010 released *The Texas State Board of Education: A Case of Abuse of Power*, a damning report that garnered international media coverage and resulted in a record 12,000 e-mail comments decrying the ideologically-driven Board. In July 2010, the affiliate filed a federal class action lawsuit against Hidalgo County, which essentially creates debtors' prisons by jailing teens for unpaid fines related to school attendance violations that are beyond their means to pay. In March 2010, it secured a major win for immigrants when a federal judge permanently enjoined enforcement of an anti-immigrant housing ordinance in Farmer's Branch. The affiliate has also continued its ongoing investigation of deficient medical care and conditions at Reeves County Detention Center in Pecos, a county facility housing non-citizens—few of them English-speaking—whose remoteness in far west Texas exacerbates the risk of harm.

Finally, the affiliate achieved a huge victory for religious minorities when a federal appeals court found that the rights of a Texas kindergarten and ACLU client were violated when his school punished him for wearing his long hair in braids in honor of his American Indian heritage.

ACLU of New Mexico has capitalized on the furor over neighboring Arizona's notoriously anti-immigrant law, SB1070, by coordinating with the national ACLU and even identifying two plaintiffs who frequently cross the border for the ACLU lawsuit opposing SB1070. The affiliate also continued to address immigration detention issues, winning the release of three Somali and one Vietnamese national, and filing a *habeas corpus* petition for a Cuban national. It also settled two lawsuits that have generated important policy changes, one ensuring mental health screening and services at a detention center in Dona Ana County, and another implementing significant new accommodations for deaf individuals at the Sheriff's Office in Bernalillo County.

- **Taking Civil Rights to the Border**
- Our groundbreaking Regional Center for Border Rights (RCBR) not only guarantees that immigrants will know their rights, but, through outreach, organizing and policy analysis, it ensures that the most vulnerable are now more secure. Housed in the New Mexico affiliate, it is a collaborative effort among the ACLU's four southern border offices (three of them SAI states) as well as the national ACLU. It is a smart and sophisticated response to the enormous challenges presented along the southern border.

ACLU of Montana won a precedent-setting victory before the state Supreme Court affirming a lower court decision that gives same-sex parents the right to maintain a relationship with their children after a relationship break-up. And in July 2010, the affiliate and the national ACLU filed suit in state court seeking protection for same-sex families—who cannot currently marry under the state constitution, but deserve equal protection through a domestic partnership system similar to those that exist in nearly a dozen other states. The affiliate also drafted the language of an LGBT-inclusive nondiscrimination ordinance adopted 10-2 by the Missoula City Council in April 2010, making Missoula the first city in Montana to prohibit discrimination on the basis of sexual orientation, gender identity, or gender expression in employment and other areas. Finally, last December, in coordination with the national ACLU, the affiliate filed a lawsuit against the Montana State Prison adult facility for its inappropriate placement of a mentally ill juvenile in indeterminate solitary confinement, subjected to such inhumane “behavior modification” programs that he has twice attempted suicide by biting through his wrist.

ACLU of Mississippi has waged a school discipline reform battle on multiple fronts. In DeSoto County, the affiliate filed a lawsuit after police held African-American students captive on a bus, threatened to shoot them, and put one in a chokehold after a verbal altercation. The affiliate secured a settlement in August 2009, aided by the fact that the event had been captured on a surveillance camera. A second lawsuit later charged school and police officials with retaliation for expelling a student who was part of the earlier case; the affiliate has already secured a monetary settlement against one set of defendants. In addition, the affiliate worked with the national ACLU to develop two

statewide reports on school-to-prison pipeline issues that garnered national attention, the first exposing the extreme human rights violations caused by the paddling of public school children in Mississippi, and the second identifying Mississippi’s alternative schools as virtual dumping grounds for troubled students. Both reports have provided ammunition for systemic reform of public school discipline, and the second has already led to new statewide accountability standards. The affiliate has also garnered tremendous attention to the treatment of LGBT students through its court victory on behalf of Constance McMillen—whose school district cancelled the prom rather than let Constance wear a tuxedo and bring her girlfriend—and through its August 2010 lawsuit against another school district on behalf of Ceara Sturgis, whose yearbook excluded her name and portrait because she posed in a tuxedo.

ACLU of Michigan continued to address the civil liberties infringements of people who have suffered because of Michigan’s terrible economy. Three cases form the backbone of this “poverty docket.” In one, the Michigan Court of Appeals ordered a Saginaw County judge to appoint counsel to an individual who had pled guilty so he could appeal his sentence; this right to appellate counsel affects thousands of Michiganders. The affiliate filed a friend-of-the-court brief on behalf of a homeless man charged with trespassing, arguing that it is unconstitutional to arrest a person for sleeping on public land when there is no place else for him to sleep; the prosecutor dismissed the criminal charges soon after. Finally, the Michigan Court of Appeal allowed the affiliate’s class action challenging the failure of the state to insure that poor people accused of crimes receive constitutionally adequate counsel to go forward; though affirmed by the Michigan

Supreme Court, it later reversed itself in a stunningly partisan decision. The affiliate and national ACLU have also recently taken Walmart to task. First, we have challenged the company's blanket ban on hiring ex-offenders, a policy violating federal employment law, which Walmart has since changed nationwide. In June 2010, the affiliate filed suit against Walmart on behalf of a cancer patient fired for using medical marijuana. Legally registered in Michigan to use the drug to treat the pain of an inoperable tumor, the client—the store's 2008 Associate of the Year—complied with state law, never ingested marijuana at work, and never worked under the influence.

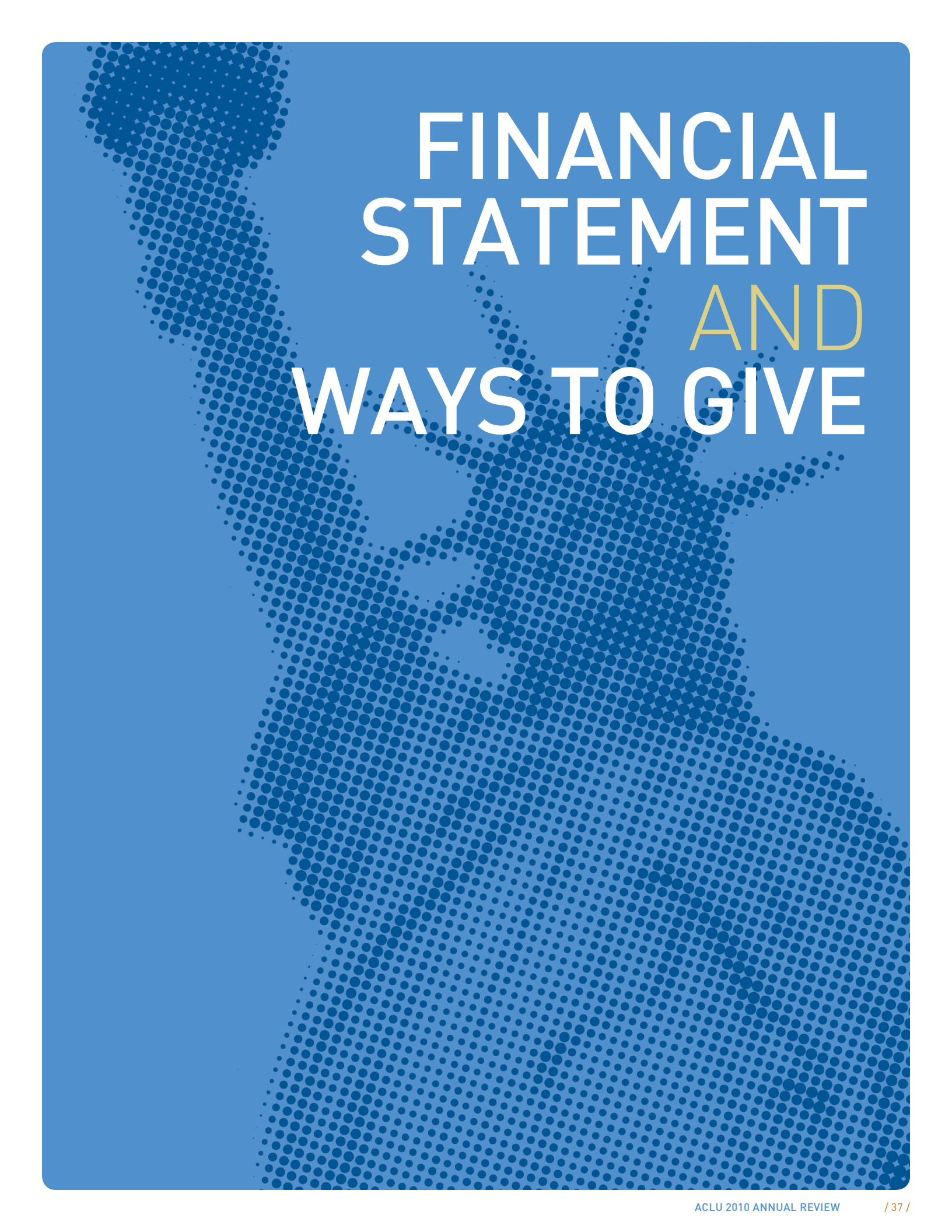
ACLU of Eastern Missouri helped stop two attempts to place a constitutional amendment on the ballot that would ban affirmative action in the state. Both efforts would have attempted to use misleading ballot summaries to convince voters that the amendment would only ban racial discrimination, not affirmative action—tactics that have tricked voters in other states, to catastrophic effect. The affiliate has also done significant work related to prison conditions. Its report, *Suffering in Silence: Human Rights Abuses in St. Louis Correctional Centers*, was shared with the FBI and resulted in hearings conducted by the St. Louis Board of Aldermen's Public Safety Committee. The Board of Aldermen unanimously passed a resolution calling for the affiliate to join a committee charged with designing an independent entity with authority to oversee St. Louis jails. The committee has met monthly, consulted with national experts, and is in the process of hammering out the details of an oversight agency.

ACLU of Tennessee just launched the Online Resource Center for Immigrants (www.aclu-tn.org/immigrantresourcecenter.htm), which provides bilingual information to help recent

immigrants and their advocates better understand their rights in the justice system. The affiliate also has an active LGBT agenda, and won a notable victory for a lesbian mother in June 2010 when the Tennessee Court of Appeals reversed a lower court decision, finding it had abused its discretion in trying to enforce a "paramour clause" in the mother's child custody agreement—one that forbade her having her children at home if her partner were staying overnight. In another case, the affiliate represented a high school freshman sent home from school for wearing a T-shirt that said, "I [Love] Lady Gay Gay." Despite the school's initial claim that the student had brought anti-gay harassment upon himself by coming out and that even T-shirts in support of marriage equality could be banned as "disruptive," the affiliate successfully negotiated with school officials to stop censoring students from wearing shirts expressing pro-gay messages. The school will also provide training on its anti-bullying policy to staff and students to make clear that harassment of any student, regardless of sexual orientation, is unacceptable.

ACLU of Arizona, the newest participant in the SAI, quickly found itself on the national stage with the enactment of SB1070, the most far reaching and problematic anti-immigrant law in the United States, with a stated policy of "attrition through enforcement" and forced self-deportation. Working with the national ACLU, the affiliate is leading a coalition of civil rights groups in a legal challenge to the new statewide law. A federal judge has already enjoined the most problematic aspects of the law, thanks to a Department of Justice lawsuit, filed by the government with our encouragement. Even as the lawsuits proceed, the affiliate has been extremely active in opposing the SB1070 by developing bilingual public education materials, hosting training workshops for

60 attorneys, speaking at nearly two dozen public events, and accommodating over 110 media interviews just since May 2010. The affiliate also won an important ruling forbidding infamous sheriff Joe Arpaio's office from requiring inmates to prepay their transportation and security costs before they can obtain an abortion in Maricopa County, and has filed a landmark lawsuit challenging the illegal arrest and detention of a U.S. citizen and a legal permanent resident during a worksite raid by the same office. ■



FINANCIAL STATEMENT AND WAYS TO GIVE

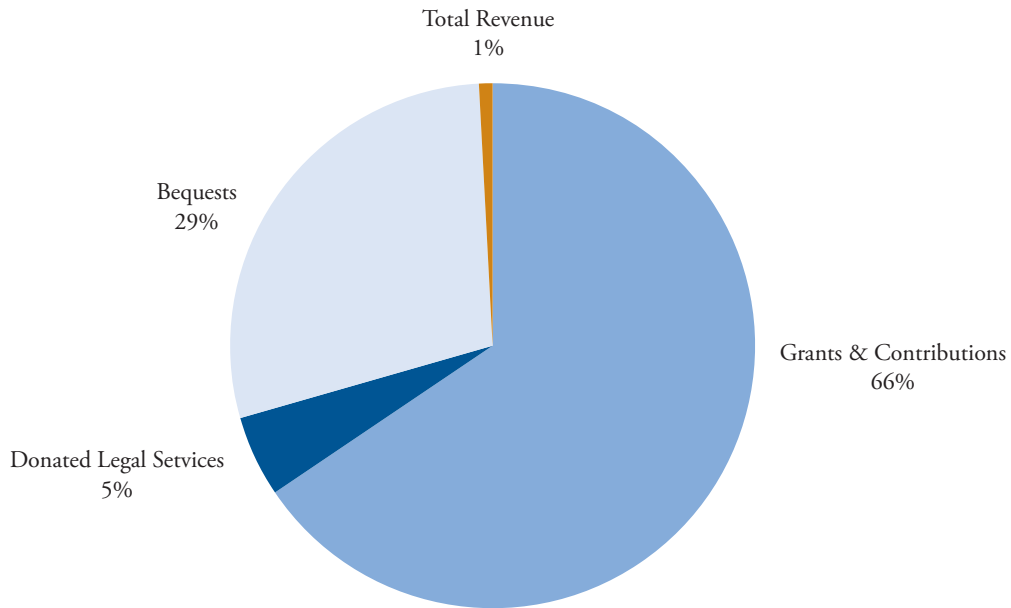
FINANCIAL STATEMENT

Consolidated Statement of Activities for American Civil Liberties Union, Inc., American Civil Liberties Union Foundation, Inc. and Subsidiary

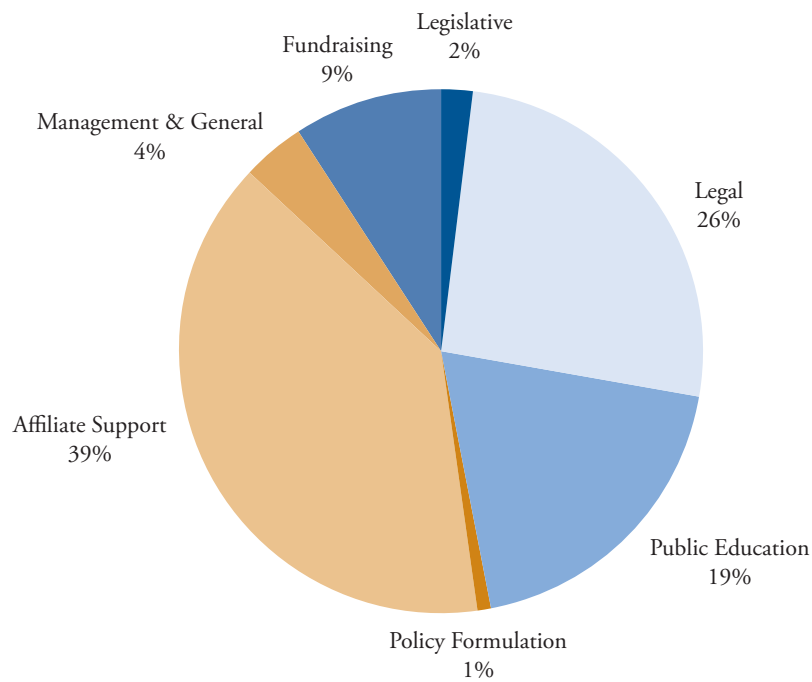
Year Ended March 31, 2010 (with summarized comparative information for the year ended March 31, 2009)

	FY2010			FY2009	
	Unrestricted	Temporarily Unrestricted	Permanently Restricted	Total	Total
Support and Revenue					
Support:					
Grant & Contributions	52,508,215	24,226,145	109,597	76,843,957	83,878,126
Donated Legal Services	5,518,497	—	—	5,518,497	- 0
Bequests	32,578,848	1,219,864	253,125	34,051,837	8,501,122
TOTAL SUPPORT	90,605,560	25,446,009	362,722	116,414,297	92,379,248
Revenue:					
Rental Income	610,849	- 0	- 0	610,849	1,045,474
List Rentals	61,595	- 0	- 0	61,595	121,778
Pamphlet and Book Sales	10,657	- 0	- 0	10,657	14,354
Other Income	49,404	- 0	- 0	49,404	92,348
TOTAL REVENUE	732,505	- 0	- 0	732,505	1,273,954
Net Assets Released from Restrictions	30,870,119	(30,870,119)	- 0	- 0	- 0
TOTAL SUPPORT AND REVENUE	122,208,184	(5,424,110)	362,722	117,146,796	93,653,202
Expenses					
Program Services:					
Legislative	2,665,260	- 0	- 0	2,665,260	2,105,761
Legal	29,084,686	- 0	- 0	29,084,686	28,438,997
Public Education	21,079,113	- 0	- 0	21,079,113	28,979,092
Policy Formulation	1,540,904	- 0	- 0	1,540,904	1,663,128
Affiliate Support	41,876,416	- 0	- 0	41,876,416	16,928,649
TOTAL PROGRAM SERVICES	96,246,379	- 0	- 0	96,246,379	78,115,627
Supporting Services:					
Management and General	4,958,911	- 0	- 0	4,958,911	7,816,530
Fundraising	9,486,746	- 0	- 0	9,486,746	13,226,412
TOTAL SUPPORTING SERVICES	14,445,657	- 0	- 0	14,445,657	21,042,942
TOTAL EXPENSES	110,692,036	- 0	- 0	110,692,036	99,158,569
Change in Net Assets Before Other Changes	11,516,148	(5,424,110)	362,722	6,454,760	(5,505,367)
Other Changes in Net Assets					
Legal Expenses Awarded, Net	4,246,555	- 0	- 0	4,246,555	1,805,989
Net Investment Income, Gains and Losses	61,257,707	678,978	- 0	61,936,685	(66,107,692)
Changes in Value of Split-Interest Agreements	(651,580)	(228,857)	- 0	(880,437)	(424,985)
Provision for Uncollectible Pledge	- 0	(4,622,222)	- 0	(4,622,222)	- 0
Minimum Pension Liability Adjustment	2,402,544	- 0	- 0	2,402,544	(15,277,994)
TOTAL OTHER CHANGES IN NET ASSETS	67,255,226	(4,172,101)	362,722	63,083,125	(80,004,682)
Change in Net Assets	78,771,374	(9,596,211)	362,722	69,537,885	(85,510,049)
Net Assets					
BEGINNING	89,824,812	56,026,410	38,424,932	184,276,154	269,786,203
ENDING	168,596,186	46,430,199	38,787,654	253,814,039	184,276,154

FY10 INCOME



FY10 EXPENSES



We are proud that the ACLU Foundation holds Charity Navigator's highest rating and meets all 20 standards of the Better Business Bureau Wise Giving Alliance.

WAYS TO GIVE

The ACLU's work to safeguard the individual rights and liberty of everyone in this country would not be made possible without the commitment of our generous donors. There has never been a more important time to support our work.

You can support the ACLU in a number of ways, and the vehicle of giving you choose can be used to boost your financial leverage, tax savings, and the impact of your philanthropy.

Gifts by check are generally deductible up to 50% of your adjusted gross income. Checks may be made payable to "ACLU Foundation" and mailed to ACLU Foundation, Office of Major Gifts, 125 Broad St, 18th Fl., New York, NY 10004.

Appreciated stock, bonds, and other marketable securities are generally deductible for their current full market value up to 30% of your adjusted gross income, if held for more than one year. You do not report capital gain on donated securities. In most cases we are able to accept restricted shares that are subject to lock-up periods.

Stock transfer instructions:

DTC #: 0226

Account Name: ACLU Foundation

Account #: AB2-027707

Brokerage: State Street Global Markets,
Boston, MA

Please contact Jeffrey Outler at the ACLU with your name and the type and number of shares at 212.549.2573 or via email at fdngift@aclu.org.

IRA Charitable Rollovers and Roth IRA

Conversions: Please check with us about the status of the law that provides for direct charitable rollovers from IRAs, and about whether you may be able to structure a gift to avoid the income tax you would otherwise pay on a Roth conversion.

Non-deductible Giving: If you have reached your annual limit on your tax-deductible charitable giving, or if tax deductibility is not a concern, please consider making a non-deductible gift to the ACLU's 501(c)(4) arm, which can be used more flexibly for our most

pressing priorities, including legislative lobbying. Checks can be made payable to "ACLU" and mailed to ACLU, Office of Major Gifts, 125 Broad St, 18th Fl., New York, NY 10004. Please call for wire or stock transfer instructions.

Donor Advised Funds: You may recommend a donation to the "American Civil Liberties Union Foundation, Inc.", tax ID # 13-6213516, Office of Major Gifts, 125 Broad St, 18th Fl., New York, NY 10004.

Beneficiary Designations: To name the ACLU as beneficiary of a life insurance policy, an IRA, Keogh, 401(k), 403(b) or other qualified retirement plan, please provide the following information to your financial institution: American Civil Liberties Union Foundation, Inc., 125 Broad Street, 18th Floor, New York, NY 10004-2400. Tax I.D.#: 13-6213516.

Life Income Gifts: Make a contribution today and receive lifetime payments in return. In many cases you can increase your income, enjoy a current tax deduction, avoid capital gains taxes, and reduce your potentially taxable estate.

Bequests: For sample bequest language, please visit: www.aclu.org/bequest or call to speak with a member of our Planned Gift staff at 877.867.1025.

Real Estate, Business Interests, Artwork, Royalties, and Other Property:

There is a variety of gift arrangements that can be used with a range of property. Possible benefits include structuring estate tax strategies to provide for family inheritance; or funding a stream of payments for your own retirement, the support of a family member, college tuition, or other purpose. Details of plans will vary; please contact us for details.

- **For further information, contact Mohammad Zaidi, Director of Major and Planned Gifts, at 212.549.2511 or mzaidi@aclu.org**

This information is not intended as tax or legal advice. We recommend that you consult with your legal and financial advisors to learn how a gift would work in your circumstances. Availability of certain life income gifts, and other laws and regulations governing gifts, may vary by state.