

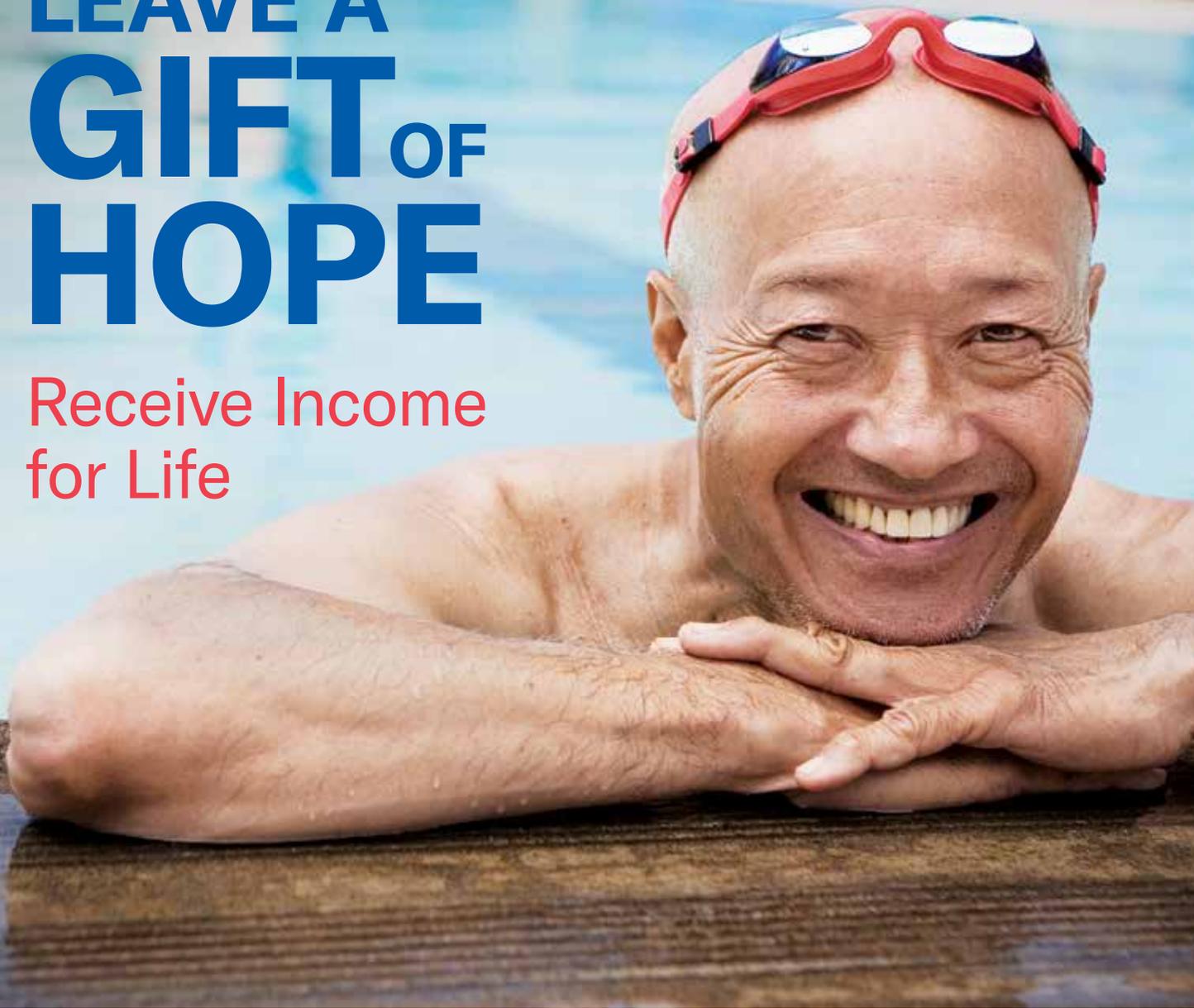
# ACLU magazine

FOR PASSIONATE GUARDIANS OF CIVIL LIBERTIES



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**“The work is by no means finished. But we forge ahead to build a more just and fair nation.”**

**I**t’s a new year—and a monumental one for civil liberties. In the midst of unprecedented challenges to democracy, the ACLU celebrates its centennial—not to rest on our laurels, but to remind ourselves that everything we’ve achieved over the past 100 years gives us the strength, perspective, and experience to tackle what lies ahead.

Our growing community of supporters since the 2016 election is a testament to a century of challenging presidents who violate their oath to defend the Constitution. The ACLU’s staff has doubled, its membership has swelled to 1.5 million, and we now mobilize more than 4 million activists.

What have we learned from the past, and what does the future

hold for the ACLU? In this issue, you’ll find moving stories that lift up untold lessons of history, illuminate current injustices, and forecast tomorrow’s threats to our civil liberties.

In **“The Trouble with Facial Recognition,”** p. 10, we sound the alarm over the rapidly expanding privacy violations of facial recognition technology and examine the software’s racist application in law enforcement surveillance.

In **“The Tarnished Arches,”** p. 16, we tackle present-day discrimination in the workplace. You’ll meet some of the dozens of people in low-wage jobs who faced retaliation from the world-famous, \$37 billion McDonald’s franchise for standing up to sexual harassment and gender bias.

And in **“Women of the ACLU,”** p. 24, we look back at the many women, from Crystal Eastman to Ruth Bader Ginsburg, who were essential to social justice movements in the ACLU’s early days, a legacy of resistance that continues in the Trump era.

The work is by no means finished. But we forge ahead, with you, to build a more just and fair nation. That’s the future we dare to create, together.

**Anthony D. Romero**  
Executive Director

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**Exchanging Mailing Lists:** The ACLU defrays the cost of our new-member recruitment by renting or exchanging our list with other nonprofit organizations and publications, but never to partisan political groups or to groups whose programs are incompatible with ACLU policies. All lists are rented or exchanged according to strict privacy standards. We never give our list directly to any organization; instead, we send the list to a letter shop that prepares the mailing for the organization that is participating in the rental or exchange. That organization never sees our list and never knows what names are on it unless an individual responds to the organization's mailing. The ACLU always honors a member's request not to make his or her name available. If you do not wish to receive materials from other organizations, write to the ACLU Membership Department, and we will omit your name from list rental and exchange. Thank you for your understanding.

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The Summer 2019 issue of *ACLU Magazine* chronicles one family's fight against the Trump administration's regressive immigration policies.



#### Re: "Fleeting Protection"

*An excellent issue; the article on Temporary Protected Status immigrants was especially moving and informative. I will pay more attention to this designation in the future and follow closely what Donald Trump continues to do to undermine people and their rights. Thank you for opening my eyes.*

Michael Castle  
Nashville, TN

#### Re: "Section 504 Sit-In"

*To add to your article about the 1977 Section 504 sit-in in San Francisco, Section 504 had already been signed (it was part of the Rehabilitation Act of 1973), but thanks to the sit-ins, agencies finally promulgated regulations [to protect people with disabilities]. The 1977 protesters got an amazing amount of support from San Franciscans, including donated food from organizations as diverse as Safeway Stores and the Black Panthers.*

Victoria Tedder  
San Francisco, CA

#### Re: "Letters to the Editor"

*Your Summer issue has a letter taking you to task for using the term "manned" tables. In this use, manned does not come from the term Man, as in Mankind, but from the Latin word manus, which means "hand." "Manning tables" would be using one's hands at tables. There's nothing sexist about manning anything.*

Barbara Vaughan  
Santa Rosa, CA

#### Re: Cusp of Progress

*Thank you for the precision and passion behind the Summer 2019 ACLU Magazine. The ACLU has fought for the true civilizing ideals of this nation through dark times and eras of great hope. Our duty is not always to win, but to be faithful to the cause of liberty and justice for all. We may be on the cusp of a new era of progress. But if not, our cause is to lift up hope and love, which are forever stronger than fear and hate.*

J. Allan Smyth  
Prineville, OR

**A note from the chair of the ACLU National Board's 2020 Nominating Committee:** Please be advised that ACLU members may submit nominations to the National Board for consideration by the Nominating Committee for the 2020 slate. Please send your recommendation to: ACLU Nominating Committee, 125 Broad Street, 18th Floor, New York, NY 10004. ACLU members may also make nominations to the National Board by submitting a petition with the names and signatures of 50 ACLU members to the address above.

**We love your feedback!** Let us know what you think about this issue: [ACLUmagazine@aclu.org](mailto:ACLUmagazine@aclu.org)



# FRONT LINE



U.S. resident Roberto Márquez hangs a flag along the border of El Paso, Texas, and Ciudad Juárez, Mexico, to protest the administration's immigration policies.

## PRIORITIES

### The Fight for Asylum

The government's efforts to block refugees upend years of long-standing protections.

**Fueled by racism,** fear, and cruelty, the Trump administration's relentless assault on immigrants has imperiled thousands of migrants and asylum seekers. The most recent asylum ban, which denies asylum claims from anyone who has come through a third country without first being denied asylum there, dishonors the long-standing American commitment to protect the most vulnerable.

"Asylum Ban 2.0, the so-called transit rule, would effectively end asylum at our southern border if allowed to take effect permanently," says Lee Gelernt, deputy director of the ACLU's Immigrants' Rights Project and lead attorney on the asylum ban and family separation cases. "Those fleeing danger cannot safely remain in Guatemala, Mexico, or El Salvador

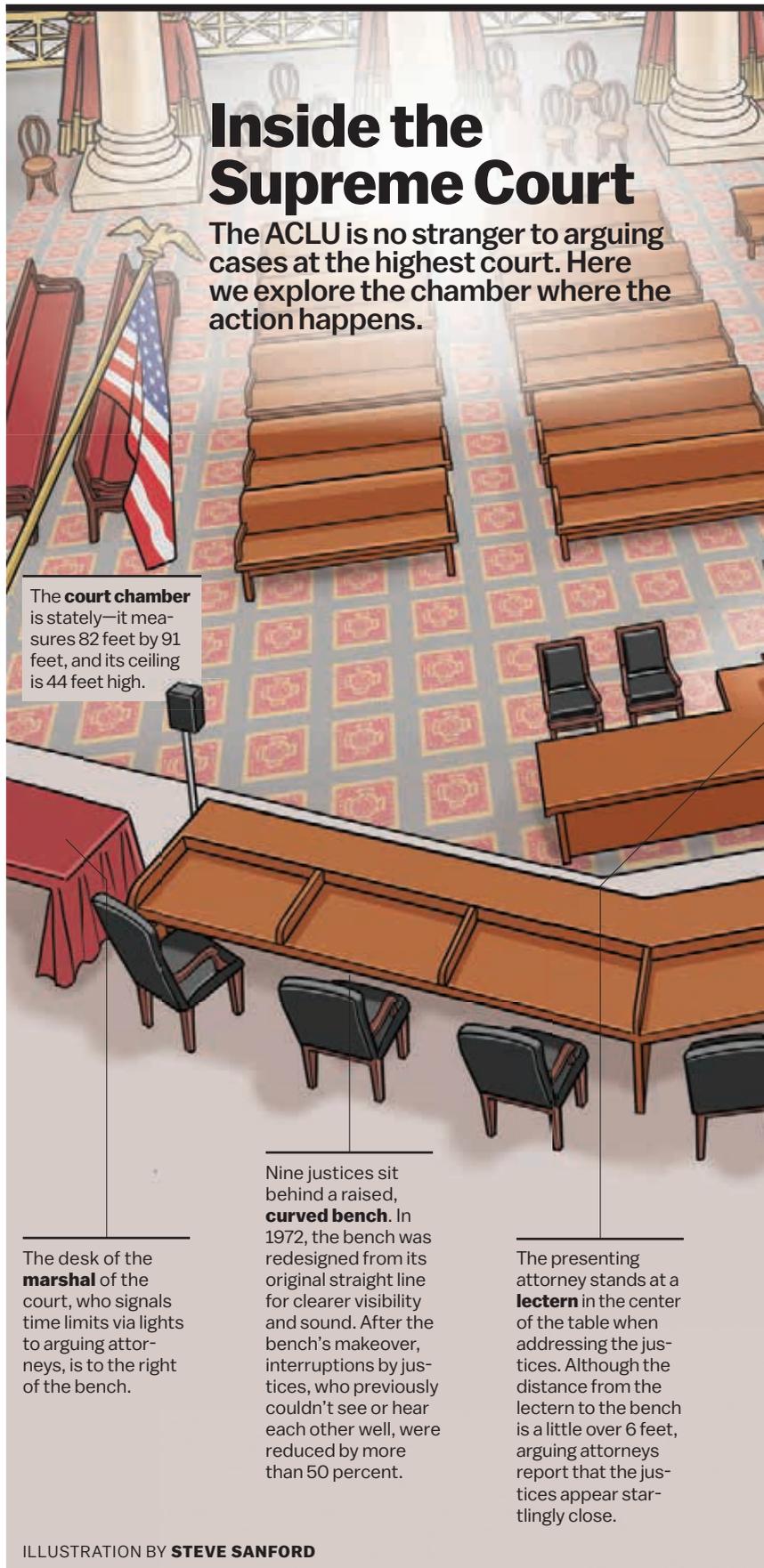
CONTINUED FROM PAGE 5

to apply for asylum—not only because their persecutors can track them there but also because those countries do not have functioning asylum systems. The administration knows full well that this is essentially closing the door on asylum seekers.”

The newest ban joins other inhumane administration immigration policies and refugee restrictions—the ACLU is still arguing against the administration’s first asylum ban, known as Migrant Protection Protocols, which forces asylum seekers to remain in Mexico while their applications are reviewed. For the second ban, the ACLU, with the Southern Poverty Law Center and the Center for Constitutional Rights, is challenging the new restrictions as violating the 1980 Refugee Act. In August, the Ninth Circuit blocked the rule. At the administration’s request, the U.S. Supreme Court allowed the ban to stay in effect while the courts decide its legality, a decision that leaves tens of thousands of asylum seekers in the United States and Mexico in limbo indefinitely.

“It’s a huge blow to the work that we do,” says Kaveena Singh, managing attorney for East Bay Sanctuary Covenant. A plaintiff in both asylum ban suits, the Berkeley, California-based nonprofit provides protection and advocacy for those fleeing persecution and violence. “We have seen so many clients with meritorious claims. There’s a human being behind each case, and many of these individuals will go back to suffering, persecution, and, likely, death.”

Gelernt is arguing a parallel case in a D.C. federal court that could lead to a reinstated injunction; if granted, the government would likely petition the Supreme Court for another stay. “The big challenge is to make sure the public understands how extreme these asylum policies are [and] how inconsistent they are with both our historical commitment to providing a safe haven and the facts on the ground,” says Gelernt. “The administration is vastly overstating the number of claims that are not meritorious. These people are fleeing serious, if not deadly, persecution and need our protection.” —JAY A. FERNANDEZ



# Inside the Supreme Court

The ACLU is no stranger to arguing cases at the highest court. Here we explore the chamber where the action happens.

The **court chamber** is stately—it measures 82 feet by 91 feet, and its ceiling is 44 feet high.

Nine justices sit behind a raised, **curved bench**. In 1972, the bench was redesigned from its original straight line for clearer visibility and sound. After the bench’s makeover, interruptions by justices, who previously couldn’t see or hear each other well, were reduced by more than 50 percent.

The presenting attorney stands at a **lectern** in the center of the table when addressing the justices. Although the distance from the lectern to the bench is a little over 6 feet, arguing attorneys report that the justices appear startlingly close.

The desk of the **marshal** of the court, who signals time limits via lights to arguing attorneys, is to the right of the bench.

ILLUSTRATION BY STEVE SANFORD

## Call Congress

End anti-immigrant abuses by contacting your legislators and demanding they cut the Department of Homeland Security’s inflated budget.

To connect to your reps, visit [aclu.org/dhs](https://aclu.org/dhs).



Red benches reserved for the **press** and guests of the justices line the right and left sides of the courtroom.

To the left of the bench is the clerk's desk. The **clerk** tracks the court's docket and calendars.

**Attorneys** who are arguing before the court sit at a line of mahogany tables in front of the bench.

**The ACLU argues more cases before the Supreme Court than any other entity except for the U.S. Department of Justice. Last year, the nine justices heard oral arguments from ACLU attorneys on critical issues including the Trump administration's efforts to add a citizenship question to the 2020 census and whether it is legal to fire someone for being LGBTQ.**



## Spread the Word

With the Trump administration's zero-tolerance policy toward immigration and its increased pressure on federal agencies to expel non-citizens, it's important that immigrants know their rights. Last summer's raids by Immigration and Customs Enforcement (ICE) were diminished in large part because of information sharing inside and outside immigrant communities and via social media about what to do when approached by the police or ICE.

Here's some advice that citizens and non-citizens alike can share with their immigrant friends and neighbors:

- **Remain** silent when questioned about immigration status.
- **Keep** doors closed to ICE officers who show up at homes or businesses unless they have arrest warrants.
- **Contact** an attorney immediately and refuse to sign any documents if detained.

ILLUSTRATION BY DRUE WAGNER

Learn more about immigrants' rights at [aclu.org/kyr](https://aclu.org/kyr).

# The State of Voting Rights

How the ACLU is thwarting state efforts to make voting inaccessible in 2020 and beyond.

**With suppression efforts** at full tilt, the ACLU is taking states across the country to court to preserve access to the ballot. “Voter suppression tactics have a huge impact on participation rates,” says Sarah Brannon, managing attorney for the ACLU’s Voting Rights Project. “They limit the ability of eligible individuals to vote and create an unfair burden on people of color and poor people.”

In June, the Supreme Court ruled that federal courts would no longer hear legal challenges to gerrymandering brought on partisan grounds, a decision that ended several key suits designed to stop what has become an effective means of voter suppression. Federal cases can still be brought if election-district maps have been drawn with a racially discriminatory impact. In addition, partisan-gerrymandering lawsuits can be filed at the state level.

“Despite some setbacks, we have reason to be hopeful,” says Brannon, noting that the ACLU is pursuing a raft of additional remedies. “Our litigation has been successful. It’s also encouraging that the public [is] supportive of making voting easy and accessible. They want everybody who is eligible to participate.” —J. A. F.

Help protect voting rights. Visit [peoplepower.org](https://peoplepower.org) to get involved.

## Indiana

In Indiana, the ACLU is arguing against a state law that allows election authorities to purge voter registrations without proper notice. A federal court temporarily blocked the law, and in August an appeals court affirmed that ruling.

## New Hampshire

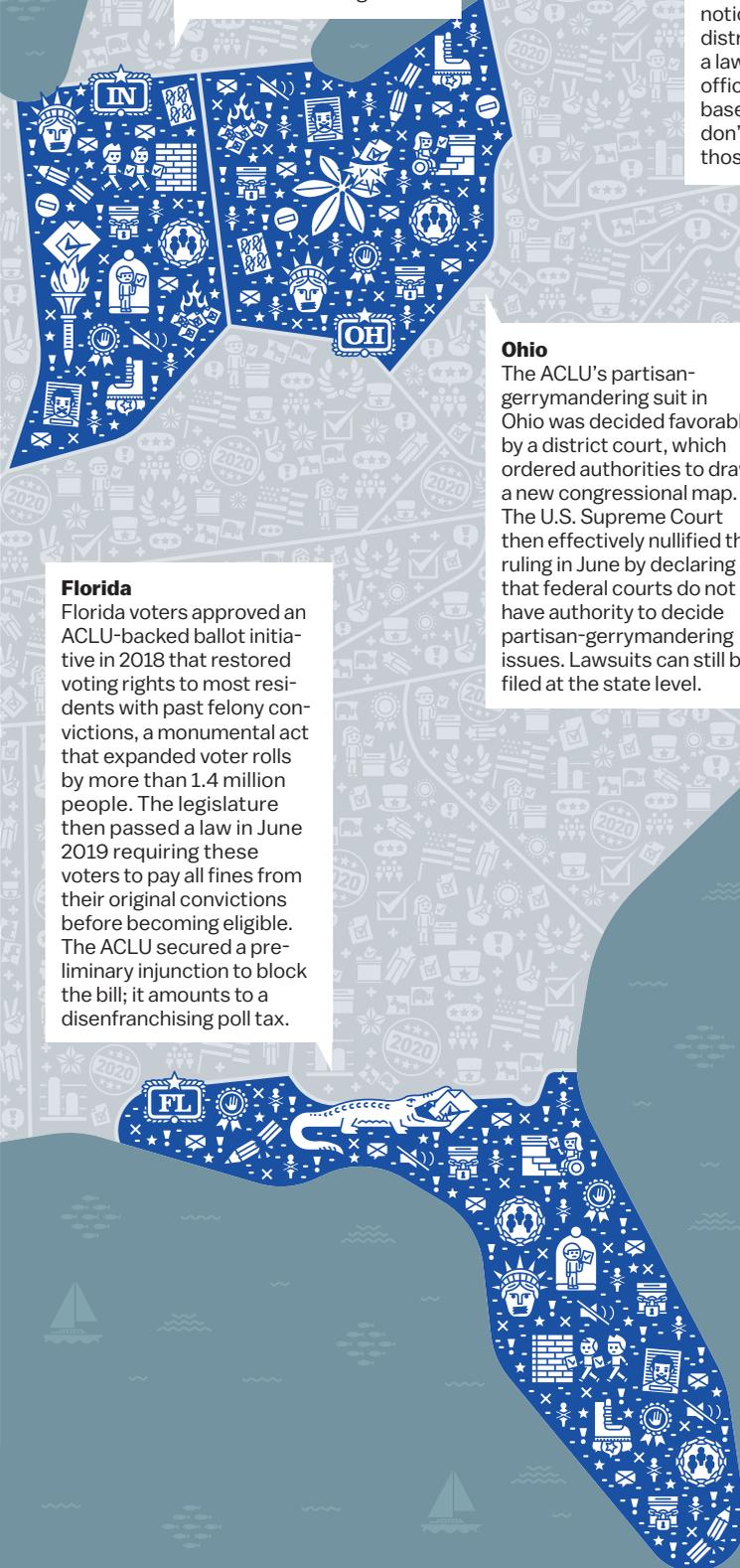
In New Hampshire, the ACLU is suing the state for invalidating hundreds of absentee ballots without notice. This came after a district court struck down a law that required election officials to reject ballots based on signatures that don’t match, a burden on those with a disability.

## Ohio

The ACLU’s partisan-gerrymandering suit in Ohio was decided favorably by a district court, which ordered authorities to draw a new congressional map. The U.S. Supreme Court then effectively nullified the ruling in June by declaring that federal courts do not have authority to decide partisan-gerrymandering issues. Lawsuits can still be filed at the state level.

## Florida

Florida voters approved an ACLU-backed ballot initiative in 2018 that restored voting rights to most residents with past felony convictions, a monumental act that expanded voter rolls by more than 1.4 million people. The legislature then passed a law in June 2019 requiring these voters to pay all fines from their original convictions before becoming eligible. The ACLU secured a preliminary injunction to block the bill; it amounts to a disenfranchising poll tax.





# Expanding Abortion Access

ACLU President Susan N. Herman answers your most pressing questions about reproductive freedom, criminal justice, voting rights, and sex-based discrimination.

Q:

**Beyond challenging hostile laws, what is the ACLU doing to protect access to abortion?**

Without *Roe v. Wade*, the states get to decide everything. This is where the ACLU's network of affiliates in all 50 states really comes into play. We are working to expand protections in friendly states and in states that border hostile jurisdictions. In the past year, lawmakers in Illinois, Maine, New York, Rhode Island, and Vermont passed historic bills locking in protection of abortion rights or expanding access to abortion. The ACLU was a key player in all these bills. Bottom line: We'll never give up the fight, and neither should you.

**I agree with ending cash bail for nonviolent offenders, but what about violent crimes?**

Let's start with the constitutional principle that anyone accused of *any* crime is innocent until proven guilty. Bail was created to ensure that people charged with a crime return for their court dates, but in practice, it results in people with means being released and poor people remaining behind bars. New Jersey, Arizona, and California have all eliminated or sharply curtailed cash bail because fairer alternatives—such as supervised release—work, even for serious crimes.

**I hear the ballot initiative Florida voters passed in 2018 to reinstate voting rights to the formerly incarcerated is now at risk by state lawmakers. Can they do that?**

They're trying, by requiring those now eligible to vote to pay all outstanding court fines and fees. This attempt to subvert the will of voters and impose what amounts to a poll tax, disproportionately impacting black Floridians, is un-American and unconstitutional, and the ACLU is fighting it in court.

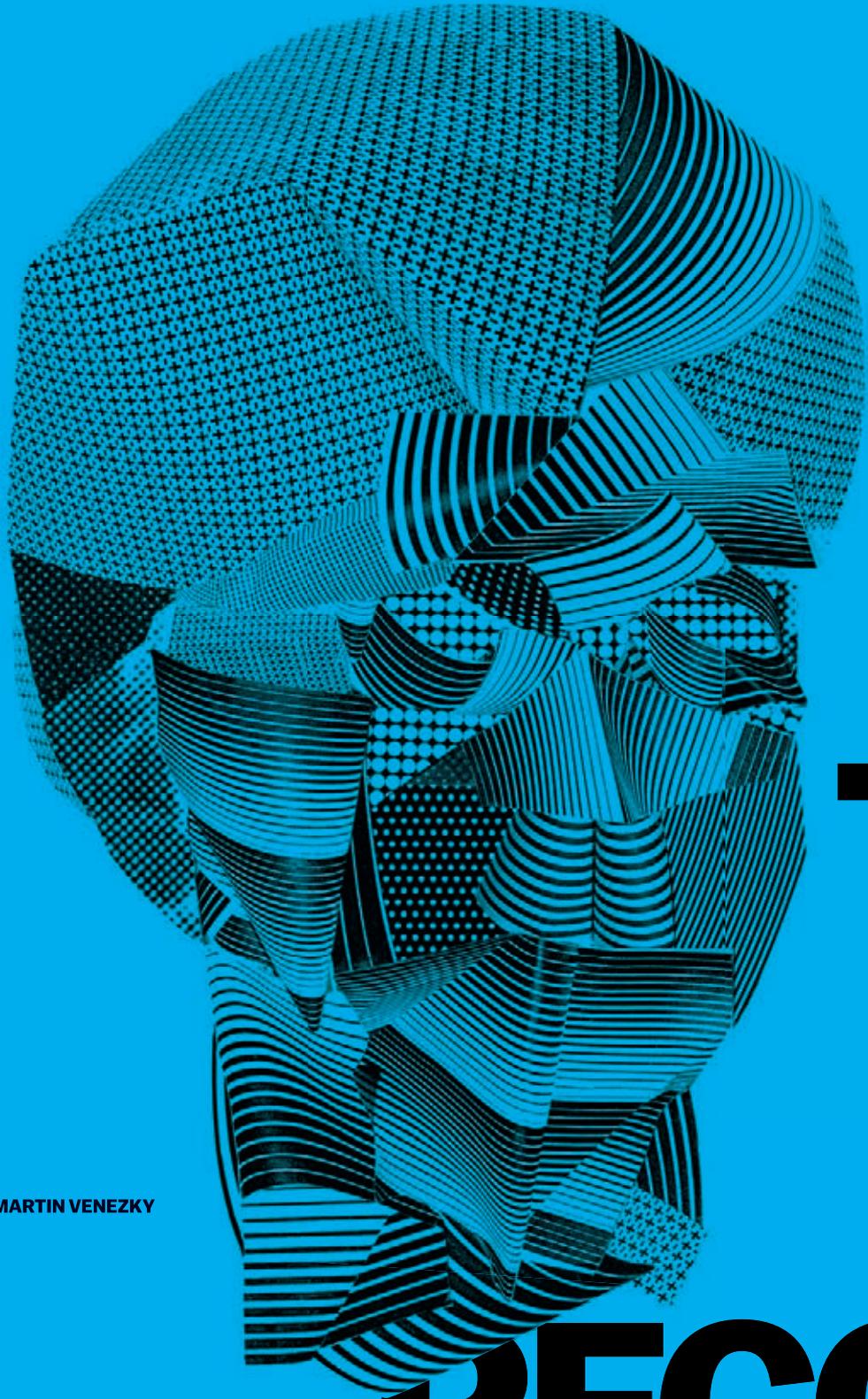
**Do we really still need an Equal Rights Amendment (ERA)?**

Yes! Despite significant gains in courts and legislatures, women and LGBTQ people still confront obstacles like pregnancy discrimination, workplace sexual harassment, and restrictions on abortion and contraception. ACLU co-founder Crystal Eastman co-authored the first version of the ERA in 1923 because she believed that explicit constitutional prohibition of discrimination on the basis of sex was essential. If Congress lifts the deadline, the ERA will be just one state away from the necessary 38 votes for full ratification.

*Read about Crystal Eastman in ACLU history on p. 24. ■*

Please send your questions to [ACLUmagazine@aclu.org](mailto:ACLUmagazine@aclu.org).





**TR**

**RECOG**

illustrations by **MARTIN VENEZKY**

**A deeply flawed and biased technology is getting better at tracking our every move. The ACLU is sounding the alarm—and demanding a ban on the use of facial recognition software by the government and law enforcement.**

by **MAXWELL WILLIAMS**

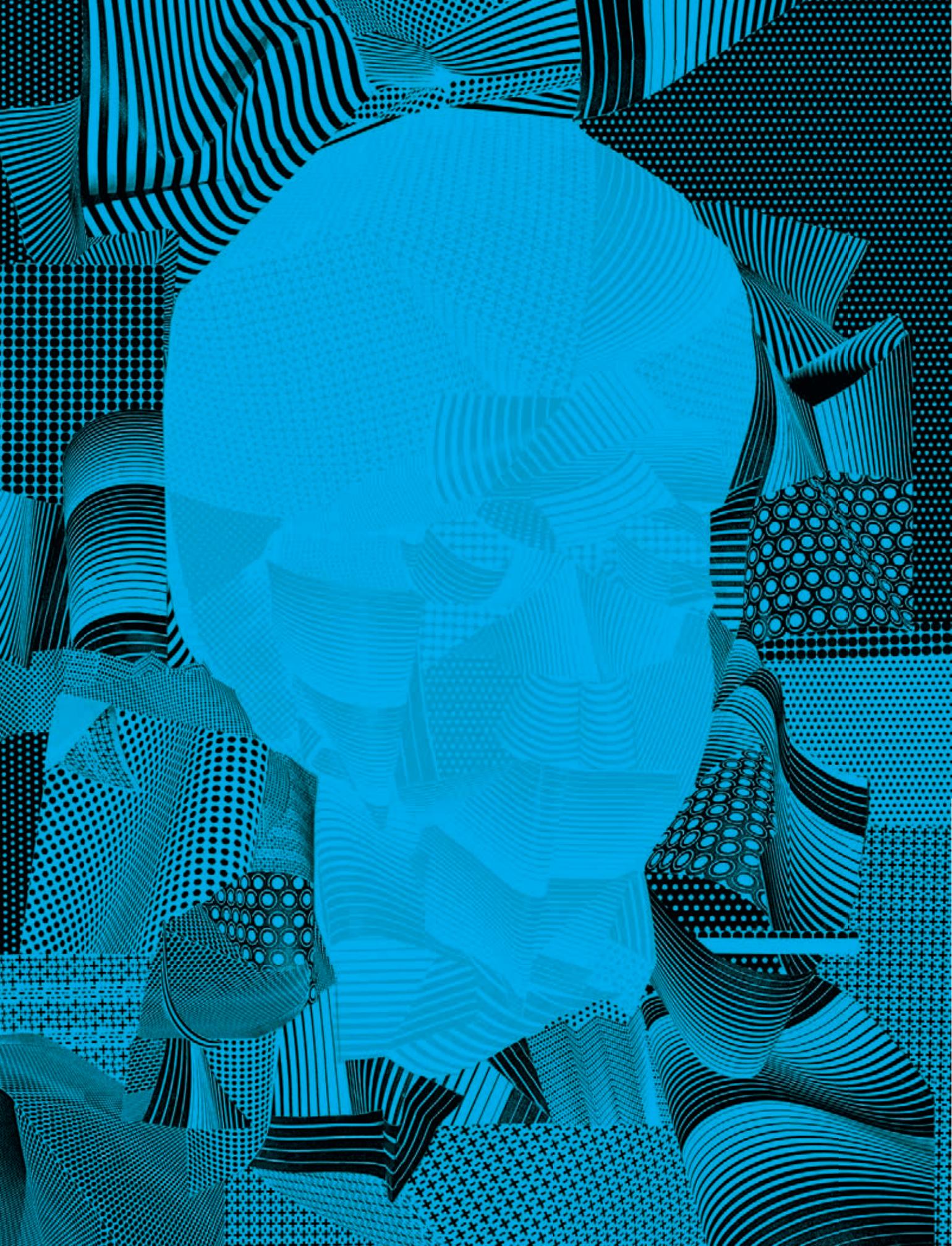
# THE DOUBLE WITH FACIAL RECOGNITION

**Two undercover narcotics** cops working with the Jacksonville Sheriff's Office are on a sting on the northside of Jacksonville, Florida, in 2015. They purchase \$50 of crack cocaine from a man, but don't want to tip off neighbors to the sting, so one of the officers pretends to make a call on an old cellphone. Instead, he snaps three photographs of the man.

Sixteen days pass, and the detective now working the case still hasn't identified the man—all he knows is he's searching for a black male with the nickname "Midnight." So he runs the poorly captured cellphone photos through a face recognition software against the county's database of mug shots, and it comes back with several possible matches, including Willie Allen Lynch, who is soon arrested. Prosecutors refuse to disclose images of the other suspects or information about the system's error rate to the defense, and Lynch is then convicted on a cocaine charge and sentenced to eight years in prison.

Lynch's case exposed Florida law enforcement's troubling use of the Face Analysis Comparison Examination System, known as FACES, which law enforcement agencies across the state use approximately 8,000 times per month. Facial recognition technology is known to produce biased and inaccurate results, particularly when applied to photos of people of color. Yet law enforcement and government agencies across the country continue to depend on it to target members of vulnerable communities and violate their civil liberties.

Prior to Lynch's case, FACES hadn't been challenged in court. After negative rulings in lower courts, the ACLU (along with the Electronic Frontier Founda-



tion, the Georgetown Law Center on Privacy and Technology, and the Innocence Project) jumped into the case, filing a friend-of-the-court brief in March 2019 with the Florida Supreme Court arguing for a defendant's right to test the accuracy of flawed face recognition systems that can be used to lock people up.

"The ACLU's been sounding the alarm on facial recognition for over a decade now," says Matt Cagle, a technology and civil liberties attorney at the ACLU of Northern California. "In 2018, our efforts entered a new phase when we discovered Amazon had created a facial recognition system and was marketing it to law enforcement agencies. We worked with the ACLU of Florida and the ACLU of Oregon to uncover those records, and that made a big splash, because suddenly, people were like, 'Oh my gosh, this company that delivers my packages is also selling dystopian surveillance to law enforcement.'"

## There is no legislation on the federal level that directly deals with face recognition. Privacy laws have not kept pace with advancements of digital technology.

The ACLU of Northern California tested Amazon's face recognition software, Rekognition, running images of members of Congress against a database of mug shots. The software returned 28 false matches, disproportionately singling out congressional members of color—including a false positive match for civil rights leader John Lewis. A study in 2018 by Joy Buolamwini at the MIT Media Lab found that face recognition technology is often trained with data sets that are overwhelmingly white, making it many more times as likely that the technology will return false matches for black people.

The problems are manifold. The use of face recognition systems is largely unregulated and could be implemented at will by police departments across the United States, anywhere there is a network of surveillance cameras. Footage from cameras perched on traffic lights or bodycams on police offi-

## ICE and ID Cards

Utah, Vermont, and Washington have been encouraging undocumented people to get ID cards and driver's licenses. What at first appeared to be a positive development has become another tactic by the federal government in its ongoing persecution of immigrant communities. The weapon is facial recognition technology.

**IN JULY,** Georgetown Law Center on Privacy and Technology uncovered documents that showed ICE is using face recognition to find and deport undocumented people. The government depends on an old law declaring the DMV should cooperate with law enforcement.

**RESIDENTS** of these three states were not aware of ICE's actions until the story broke in the media—and, of course, face recognition has proven wildly inaccurate on black and brown populations, paving the way for another biased, error-prone use of the technology.

cers' laptops can be fed through databases in real time, subjecting a city's residents to a state of constant surveillance. The impact it would have on minority communities that are already over-policed, already have too many photos in too many databases, would be overwhelming. Even if the technology gets more accurate, the real-world biases are already in place.

"The reason the ACLU and affiliates across the country are calling for bans, or a moratorium on use of face recognition by the government, is that this technology is bad when it doesn't work, and bad when it does work," says Nathan Wessler, a staff attorney with the ACLU Speech, Privacy, and Technology Project. (In 2017, Wessler successfully argued *Carpenter v. United States* before the U.S. Supreme Court, a case that established that people's cellphone location data is protected by the Fourth Amendment and police must get a warrant before seeking it from our cellphone companies.)

So when governmental agencies use the technology, such as when the ACLU learned that the Baltimore Police Department used face recognition on videos of crowds to make arrests during protests of police brutality inflicted on Freddie Gray in 2015, or when Immigration and Customs Enforcement (ICE) ran the technology against driver's license photos to find and deport undocumented immigrants in 2019, the consequences are grave for civil liberties (see sidebar).

"If we end up in a world where the technology really does work nearly flawlessly to accurately identify people, then you're walking into a surveillance society of a type that we have never encountered in a democratic society," says Wessler.

Police departments in Chicago and Detroit have purchased real-time face recognition technology, particularly dangerous in light of the extensive networks of surveillance cameras already deployed across those cities. Law enforcement agencies in Orlando, Florida, and Washington County, Oregon, have both used Amazon's Rekognition in pilot programs, though Orlando has since discontinued its use due to problems with the system and bandwidth.

The ACLU learned through a public-record request that a small start-up called Suspect Technologies had contacted the Plymouth Police Department in Massachusetts to entice them to hook up a citywide face recognition network for a town of just 60,000 people. Kade Crockford, director of the ACLU of Massachusetts' Technology for Liberty Program, says that smaller start-ups that don't have the ready-made data sets of bigger companies will often seek out these kinds of deals so they can train their software.

“The CEO was aggressively pushing the police department to effectively use the people of Plymouth as guinea pigs for the development of his software,” Crockford says. “He acknowledged in emails that it might produce about one false positive a day in a town of 60,000. So he’s trying to sell this technology, as he’s admitting its faults, leading me to suspect that those are low-end estimates of how many mistakes this technology would make. The police were ready to adopt this system until we got these emails and notified a journalist, who called the police chief. Then all of a sudden the plan fell apart.”

But it’s not just local police departments that are using face recognition software. In addition to ICE’s coordination with local DMVs, in August, the Department of Homeland Security announced its intentions to test face recognition software at McCarran airport in Las Vegas. And the FBI has access to approximately 640 million face images in databases across the U.S. But like local police departments, the FBI has been less than forthcoming about its policies.

“When the FBI first started talking about face recognition, they said that they would do it consistent with privacy and civil liberties, and they said that they would regularly audit it,” says Neema Singh Guliani, an ACLU senior legislative counsel based in Washington, D.C. “Yet years later, the Government Accountability Office has now issued reports saying that they actually hadn’t been audited, and they hadn’t been complying with existing law about privacy. At a recent hearing, Congress pushed the FBI on how much it tracks how face recognition is used in the prosecution of people who were later acquitted, and they didn’t have answers to those questions.”

## **About Face**

Face recognition is a surveillance tool that has been used since well before computers, but it always had its roots in racism and xenophobia. Os Keyes at the University of Washington and Nikki Stevens at Dartmouth University traced the idea of identity verification in America to slavery and “the surveillance of blackness” and the Chinese Exclusion Act of 1882, which prohibited the immigration of Chinese laborers.

Face recognition as a computational system cropped up in the 1960s, but true advances wouldn’t start to surface until the late 1990s, when the United States Army Research Laboratory funded Mugshot and ushered in an era when face recognition sys-

tems could take a straight-on photo and match it to images of various head positions, lighting, and partial face coverings such as sunglasses or facial hair.

Like all biometric data gathering, the development of face recognition ramped up in the years following the September 11 attacks, with each government evaluation of face recognition growing in scale and complexity. In recent years, the biggest strides in the technology have come at the hands of private companies, which profit from selling the software to law enforcement and other government agencies. Big tech companies like Amazon, Microsoft, and Google are all developing face recognition technology, with Google the only one committing not to sell the technology to law enforcement.

The company Ever AI, recently renamed Paravision and originally a public-facing cloud photo-storing company, was called out this year after it

**“These algorithms are not all-knowing; they’re flawed, they’re biased, and that kind of deployment in secret, without protections, is troubling.”**

was discovered it was surreptitiously using customers’ photos to train a face recognition program being marketed to police. Amazon’s Ring video doorbell camera has partnerships with more than 400 police departments, who can request video from Ring users—the company has applied for a patent to add face recognition technology to the system. And social media companies like Facebook and Instagram are running their own face recognition development under the guise of being able to group photos of users and their friends.

“The most dangerous part of those face recognition apps is they end up conditioning Americans to get used to the ea and not attuned to the very serious civil rights and civil liberties [violations] of face recognition by law enforcement, by other parts of the government, and by private companies,” says Wessler.

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## ACLU Face-Off

Currently, there is no legislation on the federal level that directly deals with face recognition, and privacy laws have not kept pace with the rapid advancements of digital technology. But the winds have begun to change. Guliani says that this is a rare issue that has captured the attention of both sides of the aisle.

“The hearings that we saw in the House were among the most bipartisan I’ve seen this Congress, where ranking members were essentially in agreement and particularly concerned about the use of DMV databases,” she says of the hearings before the House Committee on Oversight and Reform on face recognition technology in 2019.

Republican Congressman Jim Jordan of Ohio underscored the bipartisan concern. “Fifty million cameras,” Jordan says. “A violation of people’s First Amendment, Fourth Amendment liberties, due process liberties. All kinds of mistakes. Those mistakes disproportionately affect African Americans. No elected officials gave the OK for the states or for the federal government, the FBI, to use this. There should be some kind of restrictions. ... It’s time for a time-out.”

On a local level, that time-out has begun. Over the past year, ACLU affiliates have led coalitions successfully pushing San Francisco, Oakland, Berkeley, and Somerville, Massachusetts, to enact bans on the technology when it comes to law enforcement. These efforts are part of the ACLU’s Community Control Over Police Surveillance initiative, which is designed to ensure that residents can decide if and how surveillance technologies are used. In Massachusetts, there’s a statewide ban picking up steam in the legislature, and in New York, there’s momentum behind legislation that would ban the use of face recognition technology in schools.

Crockford, who recently worked on the Massachusetts state hearings, as well as local hearings in Brookline, says their state, California, and Washington are as naturally suited to lead the fight as states where the companies that produce this technology are located.

“In California, Washington state, and Massachusetts,” Crockford says, “we have made significant progress in other areas. That frees us up to lead in technology and civil rights.”

The ACLU’s work is starting to pay off. In October, California Governor Gavin Newsom signed a law imposing a three-year ban on statewide police

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## What You Can Do

Legislators listen to their constituents. And ideas for new legislation can come from anywhere: a lobbyist, the newspaper, a staffer, a tweet, or a phone call.

There is bipartisan support on the federal level for increased transparency and regulation of facial recognition technology. It’s important your local leaders hear from you, too.

### CALL

your state and federal representatives and voice your concerns about face recognition software.

### SUPPORT

the ACLU and its affiliates; it makes a difference. Their consolidated efforts are what lead to moratoriums on the use of face recognition by city agencies, such as the recent ban on the software implemented in Somerville and San Francisco.

Get involved at [aclu.org/privacy](https://aclu.org/privacy).

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body-camera use of face recognition and other biometric surveillance technology. A coalition led by the ACLU of California sponsored the bill.

“We are proud to have led California’s campaign to pass legislation that would restrict the use of biometric surveillance on police body cameras, devices that communities deployed after unjustified killings of black and brown people,” says Cagle. “These cameras were adopted for officer accountability, but we’ve seen indications that the companies behind these cameras wanted to add facial recognition to them, which would completely transform them from accountability devices into surveillance devices turned against the public.”

The opportunity for community members and elected officials to reject police adoption of invasive surveillance technology is a crucial protection.

“I think what you’re hearing from a lot of these communities is this idea of: we shouldn’t just push surveillance technology out before we talk about the very real effects on privacy and other civil liberties,” says Guliani. “I see a world where that’s not the norm, and where we see members of Congress step up and more proactively limit the technology until the public has debated whether we want it at all. This is part of a broader effort to ensure accountability to the public, and I think that level of accountability is achievable.”

Wessler concurs. “That can help avoid the problems that we’ve seen across Florida and elsewhere, where police start using it without any constraints or safeguards, which results in really serious violations of people’s due process rights,” he says.

“They can’t adequately defend themselves in court against allegations that they have been ‘perfectly identified by this all-knowing algorithm.’ But of course, these algorithms are not all-knowing; they’re flawed, they’re biased, and that kind of deployment in secret, without protections, is troubling.”

Because, at the end of the day, apart from covering your face at all times, there’s almost no protection against having your faceprints captured by cameras.

“That’s part of why we think this is such uniquely dangerous technology that requires strong legislative protections,” says Wessler. “Unlike our other ways that we establish identity—from Social Security number to license plate to cellphone number—all of those can be changed if your identity is stolen or something happens. You can’t change your face, in any practical way. And we don’t want to live in a society where people have to.” ■

# THE TARNISHED ARCHES

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After more than four years' worth of sexual harassment complaints filed against McDonald's, workers are still waiting for better corporate policies. Seven clients share their experiences and hopes for a better workplace.

by **HANIYA RAE**

**Few brands** are as prominent as McDonald's. Its iconic yellow arches and red french fry boxes can be easily identified around the world.

But the Happy Meal projection of the world's largest fast-food chain belies a more sinister reality. In May, with funding from the Time's Up Legal Defense Fund, the ACLU, law firms Altshuler Berzon and Outten & Golden, and the labor group Fight for \$15 announced the filing of 25 harassment complaints against McDonald's on behalf of employees whose experiences at work range from lewd comments to groping, indecent exposure, and propositions for sex. These complaints are only the latest in a campaign Fight for \$15 initiated in 2016 to remedy forms of worker abuse at McDonald's. Despite the charges and numerous protests around the country, McDonald's has done little to address its harassment problem.

In the U.S., there are more than 14,000 McDonald's restaurants—90 percent of which are owned by franchisees of the brand. As a corporation, McDonald's earns more than \$5 billion per year from these independently owned restaurants. But when it comes to enforcing dignified treatment for workers, McDonald's claims it can't be held responsible, because—as a legal matter—it doesn't actually employ them.

McDonald's is not the only company in the restaurant industry facing widespread harassment issues, but its size and profitability assign it added responsibility. Even if it does not sign workers' paychecks, say advocates, the company can—and should—demand more of the restaurants bearing its brand.

“The message from the ACLU to McDonald's is, ‘You're the gold standard in fast food—start acting like it,’” says Gillian Thomas, senior staff attorney for the ACLU's Women's Rights Project. “If they made the changes, they could have enormous power in the industry, especially when it comes to demanding that franchisees maintain harassment-free environments.”

Outside of a hectic fast-food schedule, the workers who've filed complaints against the chain have aimed to keep their lives and families intact in states as far-flung as New York and Arizona. Each person has had their own experience, but all dream of making a living wage and being able to sustain the necessities of life.

We asked these seven clients to share their experiences at McDonald's and their hopes for a better future for themselves and the fast-food industry at large.





Pictured outside her family's home, one anonymous client is suing McDonald's after experiencing sexual harassment from co-workers, on the job and online, when she was 17.

names: **Maribel and Brittany Hoyos**

ages: **35 and 19**

place: **Tucson, Arizona**

Maribel Hoyos and her daughter Brittany worked at McDonald's to help support a family of six. They experienced sexual harassment and retaliation after being at their local restaurant for a year. Since filing their cases in May 2019 and losing their income, the family has been living with friends and relatives.

**Maribel Hoyos:** I am the mother of four girls and I am the sole provider for them; my husband is disabled. I drive my kids to school and go to all the parent-teacher conferences on top of working two jobs. Brittany, my daughter, and I worked at the same McDonald's.

**Brittany Hoyos:** I saw my mom working hard and I wanted to help her, so I took a job at McDonald's—it was my very first job. I was going to school and then cheer practice. I eventually had to give up cheer because it got too stressful to do that while fulfilling all of my requirements for school and working 40 hours a week.

When I first experienced harassment, I was shocked. My shift manager kept subjecting me to unwanted attention. I felt like I couldn't talk about it—I was too embarrassed. My mom and my dad spoke to the general manager and branch manager, but still there was little change.

**MH:** I didn't have to go through everything she's had to go through. I felt bad, as her mother, like I was at fault. But then I thought, "Why was I supposed to feel guilty for someone else's actions, for someone who was in an authority position? Why are we having to feel embarrassed? Why is she scared to speak up?" This experience changed the way I look at stuff completely.

**BH:** After we came forward, my hours were reduced, and I was written up for minor issues. I was eventually fired. Because of all this, I didn't end up graduating with my class—everything was a ripple effect. Our family is still struggling.

**MH:** Right now, what's keeping us going is that we can't give up. I have four girls. The biggest thing for me is that I have to set that example for them. My girls watch everything I do, and they pick up on it. Even if, in the moment, it costs me to do the right thing, I have to take a chance and do the right thing. To be able to teach them to do the right thing regardless of whether it takes you to rock bottom—that was important to me.





Maribel (above) and Brittany Hoyos (left), mother-daughter clients who brought their cases against McDonald's in May 2019, stand outside their home in Tucson, Arizona.

**BH:** After I came forward and we filed the charge, it was overwhelming at first. I was really scared, but now I feel proud that I did it. My mom and I were able to go to a protest at McDonald's headquarters hosted by Fight for \$15 Chicago. After hearing other women's stories, it made me grateful that I did something. I'm happy I took action to bring about change, and I'm happy to be a part of that change.

name: **Kim Lawson**

age: **28**

place: **Kansas City, Missouri**

A few months after Kim Lawson began working at a McDonald's restaurant, a maintenance employee groped her and a supervisor made sexual comments. Her other managers did little to change the environment.

Kim Lawson, pictured outside her lawyer's office in Kansas City, Missouri, filed suit against McDonald's when she was sexually harassed after only a few months at the restaurant.



I'm a mother of one. Her name is Faith, and she's 4 years old. I started working at McDonald's in 2015 because I needed a second job to support my daughter.

I feel like people don't understand how hard working in a fast-food restaurant is. Most fast-food places are understaffed. You're always doing two to three jobs at a time. How come we don't deserve better pay? We're doing more than one job. Why can't I get paid what I deserve? I'm overworking myself for pennies. People always want to paint fast food as a kid's job.

At McDonald's, I experienced sexual harassment, once with a manager and once with a co-worker. At the time I experienced it, I felt alone. I felt like I couldn't talk to anyone. My general manager didn't do anything.

But then I heard about other women standing up against sexual harassment at McDonald's, and I decided enough was enough. I felt like I had to take control of the situation myself. I needed confidence to believe I could do it. I have a daughter, and I can't tell her to stand up for herself if I don't stand up for myself. I decided to finally stand up and file my case.

McDonald's is capable of making changes in their work environment. How is there a "no tolerance" policy when it's being tolerated? We are letting the world know that these things happen every day and must stop.

name: **Anonymous**  
age: **18**  
place: **Cortland, New York**

A hardworking teenager started at McDonald's while she was still in high school. After a few months at the restaurant, she was harassed by an older co-worker and saw no support from management. She was 17 years old.

I first got a job at McDonald's because it made transportation from school and home a lot easier. I don't have a car. It was easy to be dropped off for work, and I could help pay my friends for gas. I also had a friend who worked there and was one of my classmates.

When I was 17 and still in high school, an older man I worked with started sending me suggestive messages online and flirting with me during our shifts. Once, he followed me out to the dumpster and tried to kiss me; another time, he cornered me in the tiny drive-through window. I was very frightened by this guy—he was much taller than me. My managers knew about my co-worker's behavior but just teased me

about it. Eventually, he stopped working at my store, but I've heard he's at another McDonald's nearby.

Since my case was filed, we were mandated to watch a video on sexual harassment. My managers were cracking jokes about how people can't say anything at work anymore. The company was just talking about dealing with it, instead of actually dealing with it.

I spoke up originally to find some kind of closure and justice. Sexual harassment happens a lot and needs to be seen and taken seriously. I'm hoping that through programs, through the ACLU's involvement, the company's policies will change, and I'm hoping employees will start reporting harassment more often.

I recently graduated from two high school programs, and that was pretty awesome. My high school paid for me to go to a trade school, a project-based learning program for college credit. I'm still working at McDonald's, hoping to save some money for a car and go to college within the next five years.

name: **Emmanuel Flores**  
age: **28**  
place: **Cudahy, California**

Emmanuel Flores worked at McDonald's for several years before a change in management at his restaurant led to rampant sexual harassment. Flores has been active with the labor movement Fight for \$15 since filing his case.

Five years ago, I started going to college to study childhood development. I wanted a job to help out my dad; I live with him and wanted to help pay rent. I saw a McDonald's next to my school, and I already had some fast-food experience, so I applied. I got the job.

For the first few years, my work was fine. The manager I had would take complaints seriously. But then we got a new general manager. She punished me for reporting harassment. She failed to report some of my complaints.

After reporting harassment, my hours were cut the next day. I had to stop paying rent for a while.

Now they put me in the back on drive-through. I have to restock the sauce and the trays while taking orders and payments. I've been given job duties, including having to do work usually assigned to two people, which is hard for me because of some physical limitations. I've been having panic attacks. I reported it to the managers and put in for a formal reassignment. I hope it comes through.

name: **Delisha Rivers**  
age: **27**  
place: **Kansas City, Missouri**

A few weeks after starting at McDonald's, Delisha Rivers experienced harassment from a manager. She attempted to get in contact with the corporate headquarters to report the behavior, but unclear directions and dead-end phone numbers thwarted her attempts.

I grew up in Marietta, Georgia, and moved to Missouri when I was 13. I've worked in fast food for the majority of my life. I stayed with fast food because you meet a ton of new people. I always liked my jobs, and I like fast food and McDonald's in general. It's fast paced. The hours were demanding, but I wanted all the hours I could get.

What I didn't like is that you don't know when you're leaving at night. There's a lot of favoritism and bullying. My daughter is 11, and I've never been to a parent-teacher conference. When I had my daughter, I had to come back to work a few days after having a C-section. I couldn't stay at home and not make any money—there are no benefits for women at all in that situation.

I hadn't experienced sexual harassment before, so when it happened, I was upset. I reported it, but the manager I spoke to accused me of trying to set up the man who harassed me. After I complained, I was immediately threatened with a write-up and other hostile treatment. I wanted to report what was happening, but there was very little information available to me. I work at a franchise, and when I called McDonald's corporate, they refused to take my complaint and gave me a phone number to a store in another state. To this day, I have yet to talk to anyone at corporate about my experience.

After dealing with harassment, work became unbearable. They did everything to get me to quit. Either I would have to continue to deal with it or I would need to leave. In the end, I couldn't tolerate the environment anymore and had to leave.

Honestly, I loved serving McDonald's customers, and I wanted to own a McDonald's franchise. But they haven't done anything to address the issues, even though they can. Maybe if every person working in a McDonald's restaurant walked out, that'd be a big eye-opener: They'd lose a lot of money. Maybe then they'd think about changing their work conditions.



name: **Anonymous**  
age: **41**  
place: **Los Angeles, California**

A mother of three worked for more than a decade at McDonald's to support her family. After transferring to a corporate store, she was exposed to pornographic images and lewd comments by co-workers. Her managers retaliated against her after she filed a complaint.



Emmanuel Flores (above, left) and Delisha Rivers (above, right) were both punished by management after reporting the sexual harassment they experienced at their respective McDonald's.



I have three kids, and we live with my husband of 25 years. My eldest son works part time and goes to college. The other two kids are in elementary school. My youngest has speech issues and is going to therapy, so I'm applying my best efforts to help with that.

I worked at McDonald's restaurants for 12 years, the first 10 at a franchise and the last two were at a corporate store. In the corporate restaurant, my managers and co-workers would say inappropriate things. My co-workers and managers showed me pictures that were like pornography. I had a co-worker who would comment on customers as they came in, would talk about their body parts and wanting to have sex with them.

It was very hard for me; it was a lot of stress. I complained to store management, and my hours were cut. I was given more strenuous physical work. It took a huge toll.

For six months, I was on disability. I would go to therapy. I would dream of work five to seven days a week. Therapy helped me, but it didn't completely cure my issues. I just didn't get better. I remember now, and it affects me negatively in a very strong way.

What do I want? What do I expect? I want to keep helping my co-workers. The same thing is happening to them. They're facing the same things that I was facing. We're human beings. I'm still wrapping my head around how there are people in the world that can treat others like this. I'm participating in this case so there can be justice.

*This anonymous interview has been translated from Spanish. All interviews have been edited for clarity.*

Empower restaurant workers who've experienced sexual harassment by supporting their legal efforts. Visit [aclu.org/act](https://www.aclu.org/act).

**Three years into an unprecedented assault on civil liberties, women continue to lead the resistance—and take down the rampant misogyny, racism, and discrimination that are hallmarks of the day.**

by **ELLY BELLE**

**When women stepped** up in massive numbers to defend civil liberties and fight old and new injustices after the election of Donald J. Trump in 2016, they were building on a firm foundation of social justice movements created and sustained by women for more than 100 years.

“The year the ACLU was founded—1920—was also the year American women finally got the right to vote,” says Susan N. Herman, ACLU president and constitutional scholar. “This wasn’t coincidence. From the beginning, the ACLU counted among its supporters an impressive roster of women.”

Activist, lawyer, and journalist Crystal Eastman is credited as the ACLU’s “founding mother,” but today “few people know her as a preeminent champion of the major movements for social change—not just civil liberties but women’s suffrage and rights, pacifism, internationalism, and socialism,” says Herman. Eastman, along with others including activist and disability rights leader Helen Keller, started the ACLU to protect striking workers, antiwar dissidents, and immigrants from being deported, stripped of their rights, and unlawfully arrested.

“Although the early ACLU did include women, the organization did not immediately set out to promote women’s rights,” Herman notes. “That [was] the preference of most suffragists.” Many felt that pushing for full equality would erase hard-earned protections such as minimum wage laws for women and mother’s pensions.

Eastman disagreed. Winning the right to vote, Eastman said, was “a day to begin with, not a day to end” the fight for freedom. She co-wrote with Alice Paul the Equal Rights Amendment (ERA), first introduced in Congress in 1923, to ensure equal rights regardless of sex and said, “This is a fight worth fighting even if it takes 10 years.” Almost 50 years

# Women of t

illustrations by **BIJOU KARMAN**

CRYSTAL EASTMAN



he ACLU

later, Dorothy Kenyon, a groundbreaking women's rights activist and ACLU board member, advocated for full ratification of the ERA, and it was finally approved by Congress in 1972, although still not ratified by all 50 states.

Despite great gains in the courts, more than 40 years later, women and LGBTQ individuals still face rampant discrimination across all aspects of public life. Economic discrimination, from earning only 80 cents on the dollar to sidelining for pregnancy, is experienced most acutely by women of color. The ERA would provide constitutional protection against these and other forms of discrimination, and the ACLU continues to fight for its ratification to bring to bear Eastman's vision of equality for all regardless of sex, identity, race, ability, or socioeconomic status.

Here we highlight other women who have set a path toward progress during the ACLU's first century.



PAULI MURRAY

## Intersectional Vision

**A**MONG THOSE inspired by Crystal Eastman's passion for equal rights was Anna Pauline "Pauli" Murray, whose own work heavily shaped the foundations of early social justice movements.

Murray argued that discrimination based on gender was as unconstitutional as discrimination based on race. According to protégé Congresswoman Eleanor Holmes Norton, who served as assistant legal director of the ACLU in the late 1960s, Murray's understanding of the intersections of racial, gender, and economic justice was ahead of her time, saying, "She lived on the edge of history, seeming to pull it along with her."

As one of the first arrested for bus boycotts in 1940 that cemented direct action as a tactic for

the civil rights movement, Murray set a precedent for sit-in demonstrations long before the movement prioritized these kinds of protests. In her senior thesis at Howard University Law School, Murray argued against the "separate but equal" doctrine, which justified systems of segregation as being constitutional. Years later, in 1954, Spottswood Robinson, Thurgood Marshall, and others would use her thesis as a guide for arguing *Brown v. Board of Education*, which established that racial segregation in schools was unconstitutional.

In 1965, Alabama excluded women from jury service, while also keeping blacks off jury rolls. Murray convinced the ACLU to challenge both forms of jury exclusion, and helped

to write the sex discrimination portion of a brief in *White v. Crook*, a class action lawsuit on behalf of black residents of Lowndes County, Alabama.

"Pauli Murray brought to the ACLU an imaginative and critical perspective on intersectionality—referring, for example, to the unique problems African-American women confronted as 'Jane Crow,'" says Herman, adding that Murray was "building on Eastman's original vision of the ACLU as an intersectional organization that could holistically confront a web of incursions on liberty and equality."

Murray's work in racial and gender equality blazed a path for overcoming the rift between the civil rights and women's movements and uniting the two.

**“WE SHOULD  
NEVER DOUBT  
THAT A  
SMALL GROUP  
OF COMMITTED  
PEOPLE  
CAN CHANGE THE  
WORLD.”**

RUTH BADER GINSBURG



## Iconic Justice

**I**N 1971, in *Reed v. Reed*, Ruth Bader Ginsburg successfully argued that the Constitution prohibited discrimination on the basis of gender as well as race. Ultimately, the case struck down a statute in Idaho that automatically appointed a man as administrator of a deceased person's estate. The decision extended the Constitution's Equal Protection guarantee to women for the first time.

"Ruth Bader Ginsburg is an icon, obviously," says Herman. "There's been no one like her."

When Ginsburg filed *Reed v. Reed*, she credited Dorothy Kenyon and Pauli Murray as co-authors on the brief she submitted to the court to reflect "the intellectual debt which contemporary feminist legal argument owed [them]." The following year, Ginsburg co-founded the Women's Rights Project at the ACLU.

While others before her targeted rules that perpetuated injustice for women, Ginsburg rejected any differential treatment based on gender as inherently harmful to men and women. In 1975, in the case of *Weinberger v. Wiesenfeld*, she argued against a provision in the Social Security Act that denied widowed fathers the same benefits given to widowed mothers. Making the case that the provision discriminated against working women, whose Social Security taxes then lacked essential family benefits and denied men the same opportunity as women to care for their children, Ginsburg expanded the court's understanding of the far-reaching consequences of gender-based discrimination.

"Margaret Mead once said we should never doubt that a small group of committed people can change the world," says Herman. "One woman can make a tremendous difference. Ruth Bader Ginsburg certainly has."

Well into the 1970s, Ginsburg's work as general counsel for the ACLU made landmark strides; she argued more than 300 gender discrimination cases for the organization—six before the Supreme Court. Her legacy persists in the work of the Women's Rights Project and the leadership of the late Lenora Lapidus, who expanded the organization's work to include advocating for women in the criminal justice system and fighting gender-based violence.

**“WHAT  
LITIGATION CAN  
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PEOPLE WHO  
ARE BEING HURT.  
WE CAN MAKE  
PEOPLE FEEL SEEN  
AND BE HEARD.”**

JENNIFER DALVEN



## Reproductive Freedom

**S**INCE 2011, state legislators have passed more than 450 abortion restrictions, part of a nationwide anti-abortion strategy to chip away at abortion access and challenge the protections of *Roe v. Wade*. Jennifer Dalven, director of the ACLU's Reproductive Freedom Project, oversees the organization's litigation and advocacy to defend every person's right to safe health care. In 2005, she argued *Planned Parenthood v. Ayotte*, a challenge to New Hampshire's parental notice for abortion law, before the U.S. Supreme Court.

"When a law passes to restrict abortion, there's a relatively short window when that goes into effect. Jen Dalven is the last stop on litigation and is the guider of all that," says Louise Melling, deputy legal director, who leads the ACLU's work on the intersection of religious freedom and equality. "When I think about heroes for women's rights, I think of [Jen] as someone who is facing an incredibly challenging climate, going forward at a breakneck pace and trying to figure out where there's an opportunity to bring positive work."

Under Dalven's leadership, the ACLU continues to fight back against these efforts, and recently blocked an abortion ban from taking effect in Georgia, after filing a challenge to the law in *SisterSong v. Brian Kemp*. The law, which was set to take effect in January, banned abortion as early as six weeks into pregnancy, which is before many people even know they are pregnant. Georgia was one of several states, along with Alabama, Kentucky, Louisiana, Mississippi, Missouri, and Ohio, to enact similar abortion bans in early pregnancy last year. In 2019, the ACLU blocked all of the state bans challenged in court.

For every state that continues to curtail abortion access, there are others that are pushing for affirmative laws that protect reproductive freedom. Last year, the ACLU and its affiliates played a critical role in advocating for proactive legislation in Illinois, Maine, Nevada, New York, and Vermont, ensuring that people have access to the care they need, when they need it.

"We're standing up to prevent harm constantly, even as that challenge gets greater and greater," says Melling. "What litigation can often do is give voices to people who are being hurt, shine a spotlight on what the government is doing. We can make people feel seen and be heard."



CECILLIA WANG

## Fearless Future

**T**HE WORK OF the women at the ACLU has always been about fiercely defending opportunities and justice for the most vulnerable. Case in point is Cecillia Wang, ACLU deputy legal director, who argued against an extreme interpretation of immigration detention statutes in 2018 before the Supreme Court. The interpretation upheld that the government is free to carry out mass incarceration of immigrants without any hearing. The court supported the government's position in a 5-4 decision, but Wang continued to fight back against the overuse of detention and for the dignity of immigrants.

Wang joined the ACLU as an attorney in 2004, but she first worked with the organization's immigrants' rights team when she was

a first-year law student more than a decade earlier. Her leadership carved a path for the ACLU's successful, ongoing litigation against the Trump administration's zero-tolerance policies against immigrants and created an integral link among immigrants' rights, criminal justice reform, national security, and racial justice.

ACLU Deputy Executive Director Dorothy Ehrlich says that Wang's work "has largely been devoted to ensuring justice for people of color." Ehrlich adds: "She's a brilliant lawyer who brings to her work a serious and longtime commitment to women's rights and a commitment to women of color. She is an extraordinary role model."

Ehrlich herself has helped to lead the organi-

zation into the next generation by starting the ACLU Advocacy Institute, a program that provides an opportunity for high school and college students to learn directly from lawyers, lobbyists, community activists, and other experts working to defend civil rights and civil liberties. More than 75 percent of this year's participants were young women.

All of the ACLU's future progress rests on the foundations that great women have built over the past 100 years. In spite of new wars waged on civil liberties since 2017, coalitions—including the ACLU's affiliate leaders and the chairs of its Centennial Campaign, eight women philanthropists leading an ambitious fundraising effort—continue to fight for a more equitable country, where gender, race, sexual orientation, and disability are not deemed barriers to possibility but reflect the full scope of our nation's promise.

"One thing that is very interesting in this moment is [the ACLU] is one of the most hopeful places you can be," says Ehrlich. "Our work at the ACLU has been about passing on opportunities for women to do good work. It's such a wonderful honor."





# VOICES

ADVOCACY INSTITUTE

## Youth Rising

The ACLU Advocacy Institute is preparing the next generation of activists.

**The kids are ready** to take action. Just look at those participating in the Advocacy Institute, which unites high school and college students nationwide to learn about advocacy and grassroots organizing, connect with ACLU staff and student peers, and gain skills to empower their own youth-activist network. “I had been engaged in advocacy work for underserved communities, but I was looking for a blueprint that would allow me to impact people’s lives on a greater scale,” says Raven Lucas, who participated in the summer program in Washington, D.C., last July. “The institute did just that.” —TOM VELLNER

High school students from across the country rally for immigrants’ rights on the National Mall in Washington, D.C., as part of the ACLU Advocacy Institute’s summer program.

Visit [aclu.org/institute](https://aclu.org/institute) to learn more and to submit an application.



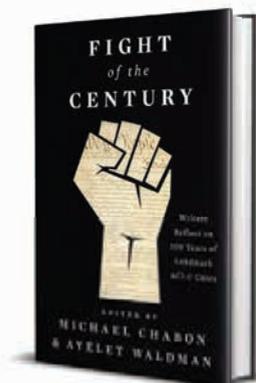
## Tracking History

The ACLU invited Ellis Cose to write an extensive account of its first century.

As the ACLU's first official writer-in-residence, award-winning journalist Ellis Cose was tasked with creating a book that would capture the breadth of the organization's vital mission on the occasion of its centennial. The thorough, expansive result, *Democracy, If We Can Keep It: The ACLU's 100-Year Fight for Rights in America* (The New Press, July 2020), is a deeply researched, politically astute account of a century's worth of ethical quandaries. Cose is an author (*The Rage of a Privileged Class*, *The End of Anger*), public speaker, and former National Center for Free Speech and Civic Engagement fellow. In this new work, he examines the ACLU's dedication to defending democracy through a turbulent history of lynchings, riots, Japanese-American internment, McCarthyism, anti-immigrant fervor, the Vietnam War, and post-9/11 assaults on civil liberties. In tracking the organization from its origins in the anti-militarist activism of World War I through its confrontation with the unconstitutional actions of the Trump administration, Cose draws critical lessons from "what American history has taught us about the interplay among the dictates of justice, liberty, and fear." —JAY A. FERNANDEZ

Ellis Cose, author of *Democracy, If We Can Keep It: The ACLU's 100-Year Fight for Rights in America*, stands in New York's Central Park.

PHOTOGRAPH BY DEVIN YALKIN



## Case by Case

Since its founding in 1920, the ACLU has led countless legal battles that have shaped the country's moral character. For *Fight of the Century: Writers Reflect on 100 Years of Landmark ACLU Cases*, editors Michael Chabon and Ayelet Waldman recruited three dozen writers to contribute essays on the most seminal cases—Jacqueline Woodson decries the racial injustice embedded in *Powell v. Alabama* (1932), Lauren Groff walks through the surprising behind-the-scenes history of *Roe v. Wade* (1973), and Marlon James explores the personal resonance of the constitutional right to same-sex intimacy recognized by *Lawrence v. Texas* (2003). As Chabon and Waldman write, the anthology is a testament to those devoted to protecting civil liberties, a "thankless, impossible, and absolutely essential job." —J. A. F.

Read an excerpt from Jesmyn Ward's essay in *Fight of the Century* on p. 35.

### Get the ACLU Newsletter

Receive an email every Saturday with a roundup of news from the front lines of the fight for civil liberties.

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"Whistle-blowing is never rewarded," says Edward Snowden, who leaked documents exposing the NSA's mass surveillance program in 2013. And yet, despite enormous personal sacrifice and risk, whistle-blowers provide an essential check on power. They can change the course of history. Artist **Eddie Guy** explores how whistle-blowing—and the ability to speak vigorously and freely without fear—is fundamental to democracy and lifts up all who live with the costs of corrupt institutions.



# Taking Initiative

Volunteer Stephanie Alvendia is fighting for access to the ballot for all voters.

**NAME:** Stephanie Alvendia

**LOCATION:** Las Vegas

**FOCUS:** Voting Rights

**VOLUNTEER:** Since 2017

After the 2016 elections, Stephanie Alvendia would no longer stand on the sidelines. As the wife of an immigrant and the mother of three biracial children, including one who's gay, she wanted to do more to protect her family's civil liberties. In October 2017, she heard that someone near her

home in Las Vegas was hosting a meeting for People Power, the ACLU's network of grassroots activists. She checked it out. The 49-year-old craved a life of political engagement, and the ACLU was "opening that door."

Soon after, Alvendia was engaged in the ACLU of Nevada's campaign to mobilize voters to support a 2018 ballot initiative on automatic voter registration (AVR), which makes registration automatic via DMV transac-

tions, fixes common registration issues like changes of address, and secures voter rolls. "We got enough signatures to put it on the ballot and voters passed it," says Alvendia. "Nevada's going in the right direction." Thanks to the campaign, AVR is expanding access to the ballot for thousands, including communities of color and first-time voters.

With that goal achieved, Alvendia pivoted to the next one: getting presidential candidates on the record about civil liberties for the ACLU's Rights for All campaign. She has since posed questions to candidates at multiple events and secured assurances from Senator Elizabeth Warren to give all Americans the right to vote by absentee ballot.

Alvendia is proud of the work she's done for voting rights, knowing that effecting real change for marginalized communities—including immigrants and LGBTQ people—means electing leaders who will put their rights front and center. "There are victories we can celebrate, but at the same time, we can't get complacent," she says. "This is a constant fight." —AVIVA STAHL

Stephanie Alvendia in the backyard of her home in Las Vegas.



PHOTOGRAPHS BY PRESTON GANNAWAY (LEFT); EMILY KASK (RIGHT)

## Become an Activist

Sign up to be a volunteer and dive into grassroots action by making calls, sending texts, or translating materials into Spanish.

Join a volunteer team at [peoplepower.org/volunteer](https://peoplepower.org/volunteer).



Jesmyn Ward is a two-time National Book Award winner and an associate professor of creative writing at Tulane University.

## We Gather

By Jesmyn Ward

*In City of Chicago v. Morales, the ACLU challenged Chicago's anti-gang loitering law that gave police the power to arbitrarily select people for arrest, disproportionately targeting youth of color. The U.S. Supreme Court struck down the law as unconstitutional in 1999. In this excerpt from her essay "We Gather," author Jesmyn Ward reflects on the case.*

**I**n 1992, the city of Chicago passed the Gang Congregation Ordinance that prohibited individuals from loitering in public places. A city commission argued that violent crime was escalating due to street gangs and that loitering gang members intimidated "ordinary" residents. The ordinance meant that police officers had the power to ascertain that one or more people in a certain place were gang members, loitering with no purpose, and could then order them to disperse, and then arrest them if they disobeyed that order.

This desire to police the other, to rob the alien other of the very human pleasure of gathering in public and sharing community, is not new. Black boys as young as 12 were charged with loitering in Mississippi in the 1930s and 1940s and 1950s and sent to Parchman Prison to be reenslaved. The Gang Congregation Ordinance resulted in 45,000 innocent people, mostly black and brown, being arrested. New York City's infamous stop-question-and-frisk program, which is still currently active, has been the conduit for ram-

pant racial profiling and illegal stops. According to the NYPD's own reports, nearly 9 out of 10 stopped-and-frisked New Yorkers have been innocent.

I am ever grateful for the work the ACLU does to root out this racist behavior legitimized in law, wherever it occurs, in Mississippi, where they've brought suit against the Madison County Sheriff's Department to challenge racially motivated policing, or Chicago or elsewhere, but it is disheartening to know that this happens all over the country, even when not codified in law. This belief that black people, brown people, queer people, trans people, disabled people, women, are perpetually less is the great American Gorgon, and these endless terrible laws and behaviors are its myriad heads, regenerating one after another. Rooting us in place with one glance, miring us in inequality. This is how we are frozen in stone. Sometimes I believe this is an endless battle. And in a rare moment, I believe maybe we are our greatest heroes, ACLU and all. On these moments, I think: onward, to freedom.

This essay appears in *Fight of the Century: Writers Reflect on 100 Years of Landmark ACLU Cases* (Avid Reader Press/Simon & Schuster, January 2020).

# Grimm v. Gloucester County School Board

AUGUST 9, 2019



1920–2020

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YEARS

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It was never just about a bathroom. But that's how it began, in 2015, when the Gloucester County School Board, in Virginia, adopted a policy barring Gavin Grimm from using the boys' bathrooms at his high school because he's transgender. Four years after the ACLU filed suit, a federal judge ruled that the policy violates Grimm's constitutional rights, a landmark victory for the transgender community. "This is about equal access to education—if you can't use the same facilities as your peers, it affects your academic ability and your self-esteem," says Grimm. "It should not be a penalty to be trans in school." —TOM VELLNER

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