

ACLU magazine

FOR PASSIONATE GUARDIANS OF CIVIL LIBERTIES

An illustration of a school building with a flagpole and trees. The building is blue with white trim and several windows. A flagpole with the American flag stands to the left. Two large, rounded trees with vibrant orange-red foliage are positioned on either side of the building. The sky is a pale, hazy blue.

**A California school
district segregates students of color.
The ACLU is suing.**



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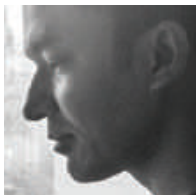
More than 50 years after *Loving*, the ACLU defends marriage equality.



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On the cover: Illustration by Anuj Shrestha

As we wrapped this issue of *ACLU Magazine* after the midterm elections last fall, we celebrated a historic victory for reproductive rights. Voters in Michigan, Kentucky, Vermont, California, and across the country made their voices heard on ballot measures to protect abortion access, sending an overwhelming message that they won't tolerate politicians issuing mandates that eliminate vital health care. In Michigan, the ACLU played an outsize role, providing early support, both financial and staff, that led to a historic effort to enshrine reproductive rights in the state constitution (see *Priorities*, p. 4). Furthermore, voters in Connecticut and Michigan also passed landmark measures to expand access to the ballot through early and absentee voting in

every election. Our efforts are yielding results—notwithstanding the strength of our opponents.

Our work is far from finished, however. Increasingly, access to our fundamental rights depends on where we live, a geography-based injustice that the ACLU is actively working to dismantle with local activists and community partners. By dedicating resources to our state affiliates, we are defending civil liberties at the local level, where challenges to those rights are most

“No organization is better equipped to secure our rights, state by state, county by county.”

often experienced. This state-intensive strategy means we can advance our core issues, such as voting rights, abortion access, and criminal legal reform, in targeted regions like the South, and litigate in less hostile state supreme courts to secure protections beyond what federal law allows.

As you'll read in this issue, our state investments are leading to groundbreaking political and legal victories with real impact on individuals and communities. In “The Future of Bail Reform” (p. 10), the ACLU of Tennessee demonstrates the collective power of litigation, advocacy, and local coalition building in transforming Shelby County's discriminatory, wealth-based bail practices into a more humane system. “Separate and Unequal” (p. 16) details the ACLU's work for racial justice in a lawsuit challenging the state of California to end discriminatory practices against students of color and students with disabilities, who are disproportionately segregated into separate, inferior learning environments. And in “Standard of Care” (p. 24), the ACLU of Iowa seeks recognition of transgender people as a protected class under the state constitution. In a multi-year effort in the state, we have fought for transgender clients who have faced significant obstacles and discrimination while trying to access gender-affirming care via Medicaid coverage.

We undoubtedly have many more challenges ahead of us. But this is precisely what the ACLU was designed for—and no organization is better equipped to secure our rights, state by state, county by county, town by town. Together, we carry this crucial mission forward, galvanized by a shared vision of true justice and equality for everyone.



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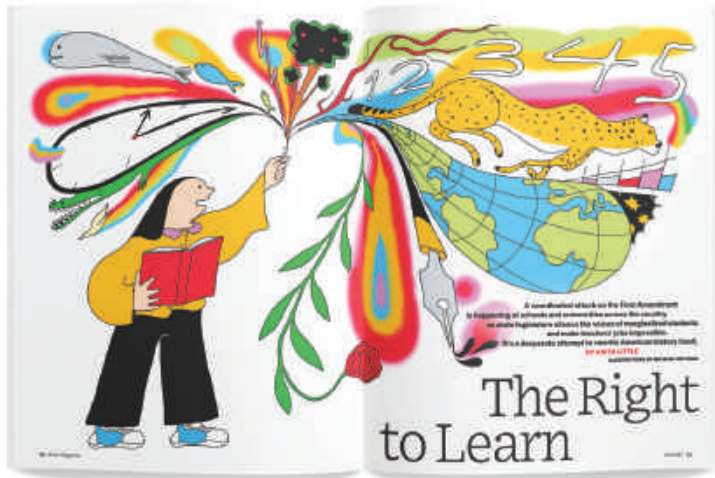
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The Fall 2022 issue of **ACLU Magazine** includes a story about state efforts to censor classroom discussions of race and gender.

Re: "The Right to Learn"

All should realize that the reason so many people stridently oppose teaching anything about race and gender is not because those who teach those subjects are not telling the truth, but because they are.

*Prof. Donald L. Doernberg
Penn Valley, CA*

Re: "The Right to Learn"

I am a teacher in Oklahoma who is adamantly opposed to H.B. 1775 as an infringement on my right of free speech to teach history accurately.

*Ky Ann Buck
Bartlesville, OK*

Re: "On Democracy's Front Lines"

I was inspired to give \$200 after reading the cover story ["On Democracy's Front Lines"] in *ACLU Magazine's* Fall 2022 issue. I believe that the work the ACLU is doing around elections is vital to the future of our country.

*Edward McClure
Princeton, NJ*

Re: Defending Our Rights

The ACLU made a very positive impact on me in the struggle to defend the rights of all people during the '60s and '70s. It's alarming to see the resurgence of white nationalism and threats to constitutional rights and settled laws.

We should not have to once again be fighting for rights already won 50 years ago. However, knowing the ACLU is still actively working to protect our rights gives me hope our democracy will prevail.

*Carol Dreiling
Camby, IN*

Re: Keep on Fighting

There is indeed a great deal of work to be done to right the many wrongs of this country, and the passionate services of the ACLU are needed more than ever. Keep up the great work.

*Carlton Smith
Malden, MA*

We love your feedback! Let us know what you think about this issue: ACLUmagazine@aclu.org

A note from the chair of the ACLU National Board's 2023 Nominating Committee: Please be advised that ACLU members may submit nominations to the National Board for consideration by the Nominating Committee for the 2023 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.



FRONT LINE

PRIORITIES

Justice by Geography

In the wake of the midterms, the ACLU continues its fight for justice at the state level—in Michigan and beyond.

We the people showed up for civil liberties in astounding numbers in the crucial November midterms. Nothing illustrates this better than the historic passage, by 56.7 percent, of Michigan's citizen-initiated Proposal 3, a comprehensive constitutional amendment that guarantees reproductive freedom for generations to come. When the amendment took effect December 23, it not only preserved abortion rights for everyone in Michigan, it also situated the state as a much-needed sanctuary for people from nearby states where abortion may be inaccessible or unlawful.

The ACLU of Michigan played a critical role in advancing the record-breaking ballot referendum by supporting the Reproductive Freedom for All (RFFA) ballot committee, which secured more than

Last fall, voters in Michigan approved a groundbreaking ballot measure to enshrine reproductive rights in their state constitution.



REUTERS/VELVYN HOOKSTEIN

CONTINUED FROM PAGE 5

730,000 signatures to place the measure on November's ballot. Beginning well before *Roe v. Wade* was overturned, the ACLU and the Michigan affiliate contributed \$7.5 million, along with legal and advocacy staff hours, to RFFA's campaign. This momentous win was also the result of the state's recent expansion of voting rights. In 2018, the ACLU and ACLU of Michigan supported the Promote the Vote campaign, also called Proposal 3, which modernized Michigan's voting system to include early voting and Election Day registration. It passed with 67 percent of the vote and laid the foundation for this kind of successful ground-level operation.

"This win belongs to all of us," says Loren Khogali, executive director of the ACLU of Michigan. "Together, we blazed a trail, making Michigan a national model of what other states can achieve. The work that brought us to this moment has forged a formidable coalition of partners committed to reproductive freedom and justice in Michigan."

Michiganders were not alone in defending our ability to access essential health care last fall. Voters in Vermont and California overwhelmingly passed constitutional amendments protecting the right to abortion, while voters in Kentucky and Montana rejected anti-abortion ballot measures. Taken together, it was a massive win for reproductive freedom at the polls.

These are extraordinary victories, shining a light on what it takes to achieve progress in key states ahead of the all-important 2024 elections. Yet the United States today is still a story of two countries, where the full rights of citizenship are increasingly determined by where you live. A person's right to vote or to make personal medical decisions cannot depend on whether they live in California or Georgia. This justice—or *injustice*—by geography compounds entrenched racial, gender, and economic disparities, making national equity impossible.

"Place has always been a determining factor for whether or not you had access to protections under the law," says Alanah Odoms, executive director of the ACLU of Louisiana. "The center of our work needs to be the people who are most directly impacted, and our proximity to them is through what's happening in the states."

The ACLU is mapping a future where "we the people" means everyone can access their fundamental rights—no matter where they live. The recent midterms demonstrated what success looks like when voters have the opportunity to express their will freely and fairly. —JAY A. FERNANDEZ

Merrill v. Milligan

In October, the U.S. Supreme Court heard *Merrill v. Milligan*, a case filed by the ACLU, the Legal Defense Fund, and partners, challenging Alabama's newly drawn congressional maps. Brought on behalf of individual voters and civil rights groups, *Merrill* asserts that Alabama's maps are unconstitutional and racially gerrymandered, harming Black Alabamians and communities of color. The court's decision, which is expected by June, will have profound implications for Section 2 of the Voting Rights Act, which bans racial discrimination in voting nationwide.



ILLUSTRATION BY LEIF PARSONS



Student Speech

As book bans and efforts to restrict teaching about race and gender continue to spread, students across the country are pushing back (see *My Stand*, p. 35). They're protesting directly with their school districts to resist the chilling effect of classroom censorship.

But what exactly are students' speech rights in school? Here's how you can help students know their First Amendment rights:

- Free speech doesn't stop at the schoolhouse door. Students have the right to speak out—as long as it doesn't interfere with the school's functioning.
- Schools can regulate speech that disrupts others' education. What counts as "disruptive" will vary, but a school deeming speech controversial is not enough.
- Outside of school, students have the same right to protest as anyone else. Those who advocate off campus have the most protection.
- Students have the right to speak their mind on social media. Schools can't punish students for what they post off campus and outside of school hours that does not relate to school.

To learn more about students' rights, visit [aclu.org/kyr](https://www.aclu.org/kyr).

What's at Stake

In late 2021, Alabama adopted new political maps after its once-a-decade redistricting process. The maps "pack" voters on racial lines, escalating Alabama's historical practice of limiting Black voting power.

Alabama's new congressional maps include only one district out of seven in which Black Alabamians, who make up more than 27 percent of the state's voting-age population, can elect preferred candidates. By "packing" Black Alabamians in one district and "cracking" a long-standing majority-Black area across three separate districts, the new maps dilute the power of voters of color.

In January 2022, three federal judges ruled that Alabama must redraw its discriminatory maps. Now the case stands before the Supreme Court, and the stakes couldn't be higher. The court's decision will reach far beyond Alabama, potentially deepening discrimination in voting nationwide.

If the court upholds Alabama's racist redistricting plans, it will severely undermine Section 2 of the Voting Rights Act, which was designed to protect against even hidden forms of discrimination. Without a functional Voting Rights Act, efforts to make the United States a truly fair democracy will be set back. All voters, no matter their race, deserve equal representation.

Visit [aclu.org/redistricting](https://www.aclu.org/redistricting) to learn more.



Making Families Whole

The ACLU pushes to reunite remaining families forcibly separated at the border.

The Trump administration's family separation policy remains a great stain on the country. While President Biden has worked to repair the damage wrought by tearing more than 5,500 children away from their families at the U.S.-Mexico border, his administration must do more to meet the situation's moral urgency. Five years on, the ACLU believes that there may be more than a thousand children who still have not been returned to their parents, even as some state governors exploit new asylum seekers for political gain.

Since the moment this assault on civil liberties became public, the ACLU has fought to reunify the families, while also pursuing litigation to ensure they are compensated for the harm they've suffered. "What I fear is that the issue has slipped out of public consciousness," says Lee

Gelernt, ACLU Immigrants' Rights Project deputy director, who sued the government and is supervising the reunifications. "The Biden administration has done a pretty good job thus far, but there's still so much work yet to be done. And without public pressure, there's a real concern that the administration will shortchange the relief these families receive."

Ms. L v. ICE, the ACLU's 2018 class action lawsuit, has led to more than 2,000 reunifications, and comprehensive settlement negotiations are ongoing. The Biden administration's Family Reunification Task Force has reunited more than 500 families, including parents that the ACLU-created search teams tracked down abroad in collaboration with the International Organization for Migration. Beyond reunification, the ACLU is pushing for

families to receive immigration relief so they're not re-deported, and support services such as legal counsel and an expansion of mental health care. The ACLU is also party to a pair of lawsuits that seek substantial monetary compensation for the families; after endorsing the idea, the current administration pulled out of settlement negotiations in the fall of 2021. As of November 2022, as many as a thousand parents may still be trying to return to their children in the U.S., including 134 parents whom the ACLU search team is still looking for on the ground, largely in Central America. Unknown others remain a mystery because the Trump administration kept no records.

"This is by no means over," says Gelernt. "There are children who are going on their fourth and fifth years having been separated from their parents. We are pushing to get these families reunited and allow them to remain in the country so they're not re-separated and re-traumatized." —JAY A. FERNANDEZ

Take action for separated families at aclu.org/reuniterrepair.



Equal Access, Full Potential

ACLU National Board President
Deborah N. Archer answers questions
about defending affirmative action
and preserving privacy post-*Roe*.



Q:

What's at stake if the Supreme Court ends affirmative action at universities?

Last fall, the U.S. Supreme Court heard arguments in two challenges to affirmative action at Harvard and the University of North Carolina. Affirmative action addresses racial discrimination by responding to structural barriers that have denied underrepresented students access to higher education. If the court strikes it down, universities across the country could no longer consider a student's race as one factor in a holistic admissions process.

Colleges have an important interest in student-body diversity. Race-conscious admissions is an extension of a university's academic freedom to assemble a diverse student body, which benefits all students. Removing the consideration of race in admissions conflicts with the ability of a university to select its student body.

Rather than be forced to defend affirmative action, colleges and universities should be required to defend their use of admissions criteria that perpetuate racial inequality, such as legacy admissions. The end point, or sunset, for affirmative action shouldn't be linked to what is going on at a particular institution, but to what is going on in our society. These cases

threaten to make it even more difficult for this country to reckon with its legacy of racism.

Regardless of the court's decision for higher education, which is expected in the coming months, we need to aggressively challenge racial inequality and racial segregation in our K-12 schools. The ACLU has long worked to ensure that students of color are treated fairly to develop their full academic and social potential (see p. 16).

How can people seeking abortions—and those helping them—protect themselves from surveillance and efforts to criminalize the procedure post-*Roe*?

In the past 20 years, digital technology has rapidly expanded how we communicate and share information. Yet digital privacy protections have not kept pace. This lack of privacy

has profound implications in the face of expanded criminalization of reproductive health care post-*Roe*. For people seeking abortions and those assisting them, you can minimize your digital risk by turning off location sharing and ad targeting on your phone, using privacy-focused search engines and browsers, and communicating via secure messaging apps.

To confront the criminalization of abortion care, the ACLU and its partners are launching a first-of-its-kind criminal defense initiative that will ensure health care providers, patients, and abortion funds have access to high-quality legal representation. This collaboration will minimize the harm for thousands in hostile states intent on punishing people who provide, seek, and assist abortion care.

Please send your questions to
ACLUmagazine@aclu.org.

SHELBY JUSTICE



THE FUTURE OF BAIL REFORM



SOURCE PHOTOGRAPHS BY BRANDON DILL, PEXELS, UNSPLASH

**At the start of the pandemic,
Memphis' inhumane jail conditions became impossible to ignore.
The ACLU of Tennessee brought together
local leaders to tackle the problem where it starts:
the county bail system. BY JAY A. FERNANDEZ**

ILLUSTRATIONS BY AARON MARIN

SEVENTY-FOUR PERCENT OF PEOPLE BEING HELD IN CITY AND COUNTY JAILS AROUND THE UNITED STATES HAVE NOT BEEN CONVICTED OF ANY CRIME.

This amounts to approximately 450,000 people detained pretrial at any one time—a number that has nearly quadrupled since the 1980s—often for low-level offenses. For many, these circumstances are merely the result of an inability to afford bail, a punishment that separates people from their families, puts their jobs and health at risk, and drives them further into debt. For-profit lenders and insurance companies perpetuate these harms, preying on low-income communities. And bail amounts vary widely from city to city, depending on the demands and practices of elected judges and prosecutors. Deeply discriminatory, cash bail, or money bail, policies result in a pretrial population that is disproportionately Black, a symptom of systemic racism that is especially acute in the South.

Since 2020, the ACLU of Tennessee and its partners in Memphis have been working to revamp Shelby County's bail system with groundbreaking results. A system in which people were detained on unaffordable bail and without a guaranteed hearing for months—or even years—in overcrowded jails will now be among the most humane, release-promoting systems in the country. The critical outcome is that far fewer people will be incarcerated.

“Bail reform faces a lot of opposition in the South, but this success shows what can be accomplished through steady community building and culture change,” says Ashika Verriest, staff

attorney with the ACLU's Criminal Law Reform Project. “The commitment of the Shelby County leaders to collaborate serves as a model for other counties in the South and nationally.”

NESTLED AGAINST THE Mississippi River in the southwest corner of Tennessee, Shelby County is the largest of the state's 95 counties, with a population of more than 900,000. The county jail houses an average of 2,000 incarcerated people daily, with 56,000 bookings a year. The men's facility, known colloquially as “201” for its location at 201 Poplar Avenue in downtown Memphis, sits inside a monolithic building complex that also houses the courthouse, the district attorney's office, and pretrial services.

Early in the COVID-19 pandemic, the ACLU began litigating across the country to get vulnerable people released from jails. As part of this urgent campaign, in May 2020, the ACLU of Tennessee filed a federal class action lawsuit against the Shelby County Sheriff on behalf of people incarcerated at 201. *Busby v. Bonner* sought emergency action to protect hundreds of medically vulnerable and high-risk people in pretrial detention there. While working on the case, ACLU of Tennessee Legal Director Stella Yarbrough discovered that there were people who had been in pretrial custody for as long as seven

years without a hearing on bonds as high as half a million dollars, even though the median national bond for a felony is \$10,000. People were languishing in jail for months and even years with no means for release.

Russell Leaks, who joined the ACLU's lawsuit, was detained at the Shelby County Jail for months without a trial and lived in a dormitory-style pod with 20 other people sleeping in bunks two feet apart. At the time, Leaks was 65 and suffered from chronic liver disease including hepatitis. He was not able to social distance or visit the medical unit even as other detainees and jail employees tested positive for COVID-19.

Busby finally settled in April 2021. The agreement included continued monitoring of conditions in the jail and the distribution of vaccines and educational materials. Critically, the judge approved an independent monitor to keep track of required changes at the jail. The monitor's report recommended that the jail population be reduced by at least 50 percent, citing bail's discriminatory role in the system. The lawsuit had fully exposed what the community already knew: The jail was full of presumptively innocent, low-income Black and Brown people being denied their most basic needs, including drinking water, showers, phone calls, and clean, safe air—and money bail was the prime driver perpetuating these inhumane conditions and racial disparities.

“As we worked through [litigation], the conditions of the jail, the operation of the jail, the functioning of the Shelby County criminal legal system were all brought into the open,” says Josh Spickler, executive director of Just City, a nonprofit focused on reforming the criminal legal system and co-counsel in *Busby*. “The idea of litigation based on Shelby County's pretrial detention practices just became an obvious next step.”

“When *Busby* settled, it became urgent to identify ways to get people released,” says Yarbrough. “That's when we started having discussions about, how do people [remain] in jail for five years without a conviction? What are the



**“HOW DO PEOPLE [REMAIN] IN JAIL
FOR FIVE YEARS WITHOUT A CONVICTION?
WHAT ARE THE SYSTEMIC PRESSURE POINTS
THAT ARE LEADING TO THAT RESULT?”**

—STELLA YARBROUGH, ACLU OF TENNESSEE LEGAL DIRECTOR

systemic pressure points that are leading to that result? We began that investigation: talking to people who work in the system, people who are in custody, people who work on the bail-setting side, and identifying the need there.”

Over the next seven months, the ACLU of Tennessee identified and collaborated with key coalition partners that could collect data, articulate the lived experiences of those in the community most impacted by the bail system, and design a strategy for potential reforms. In addition to Just City, these partners included Stand for Children Tennessee, a nonprofit focused on education equity and youth justice reform, and the Official Black Lives Matter (BLM) Memphis Chapter. Stand for Children was instrumental in coordinating with potential allies and addressing obstacles in the system. BLM illuminated the true impact of the county’s bail practices, providing the ACLU with crucial ground-level perspective on the system’s realities. And Just City, which, like BLM, operates a local bail-relief fund, shared critical institutional knowledge about the inner workings of the system while researching the intricacies of how pre-trial detention decisions are made.

In December 2021, the ACLU, the ACLU of Tennessee, Just City, and the Wharton Law Firm sent a letter to Shelby County officials demanding the county stop its unconstitutional bail practices. “We all saw the upcoming DA election and other elections that were happening that fall [of 2022] as an opportunity to convince the stakeholders to get reform done, so they could run on it and make it a platform in their campaigns,” says Yarbrough.

After some initial discussions, Shelby County officials were finally ready to sit at the table in April 2022. Mayor Lee Harris, Sheriff Floyd Bonner Jr., then District Attorney Amy Weirich, Judge S. Ronald Lucchesi, County Attorney Marlinee Iverson, and various ACLU coalition partners and county representatives all met at 201 Poplar Avenue to begin several months of comprehensive negotiations. At the same time, the ACLU of Tennessee and



“THE COMMITMENT OF THE SHELBY COUNTY LEADERS TO COLLABORATE SERVES AS A MODEL FOR OTHER COUNTIES IN THE SOUTH AND NATIONALLY.”

—ASHIKA VERRIEST, ACLU CRIMINAL LAW REFORM PROJECT STAFF ATTORNEY

partners engaged in nonpartisan education around the role of prosecutors in the criminal legal system, including the money bail, in advance of local elections that summer. In addition to launching a digital campaign targeting motivated voters, the ACLU of Tennessee published on its website candidates’ positions on money bail and other issues to inform the electorate. Shelby County DA candidate Steve Mulroy, who was co-counsel in the *Busby* lawsuit, made a campaign pledge that he would make money bail a last resort, to be imposed only if other less restrictive conditions are deemed insufficient to ensure that someone appears for their trial. He won the election and began his eight-year term in September. (Mayor Harris was re-elected.)

In late August, the ACLU and its partners announced that a formal agreement

on comprehensive reforms had been reached. The county commission unanimously passed a resolution making the proposed reforms law, and judges signed a standing bail order. The new system will include bail hearings with counsel no later than three days after a person’s arrest, examination of a person’s financial circumstances prior to any decision, and use of money bail only as a last resort. The system also allows judges to continue to make decisions after hearing from both the government and the accused person’s defense counsel. Critically, the agreement includes provisions for data collection and continued monitoring so that the reforms, once implemented, can be studied and adjusted where necessary to achieve their ultimate goal: drastically reducing incarceration rates without sacrificing public safety.

THE BUSBY CASE, along with another ACLU of Tennessee lawsuit challenging police spying on activists in Memphis, and the DA race connected several local issues to make it an opportune moment to achieve bail reform in Shelby County. All strengthened the collective power of the community coalition the ACLU of Tennessee brought together to tackle the bail system. Over the past few months, the coalition has been implementing the changes in deeply entrenched systems staffed by people with decades of experience working in a particular model. Everyone from the national ACLU to the Tennessee affiliate and its partners has had a hand in manifesting the new system: drafting the new forms and orders that the commissioners use; training the judges, prosecutors, and public defenders to operate within the new system; ensuring the necessary data-tracking systems are in place; and working alongside local officials to make sure that the system complies with the new rules. The goal is to have all the new procedures in place early this year.

Once the reforms are executed, the new system can be further adjusted based on what data emerges about pretrial release conditions and outcomes broken down by defendants'

race, ethnicity, and type of charge. Then the ACLU will pull together a playbook of best practices for future reform efforts elsewhere. "One of the great things about this agreement is that we have provided for data to be released publicly and directly to us," says Yarbrough. "Once we start getting those first data sets, if we see that we have created a really effective system, then I would love to take that show on the road."

A number of factors point to a potential blueprint for how to achieve similar reforms in other jurisdictions: The *Busby* litigation produced firmly documented independent evidence of dreadful—and illegal—pretrial detention practices that could not be dismissed. And the ACLU of Tennessee had a solid track record of following through on litigation threats. ACLU Criminal Law Reform Project Staff Attorney Andrea Woods, who is a nationwide bail expert specializing in pretrial detention and was lead attorney on the *Busby* case, has been plugged into Tennessee politics for years. She developed relationships with the key players in Shelby County and brought them together around the common vision of what ideal pretrial justice should look like. The timing of an election year helped since candidates wanted to capitalize on the appetite

for criminal legal reform, and the amenability in the existing political environment meant that the highest levels of county leadership were receptive in a way that previous administrations may not have been. Just City and Stand for Children had nurtured these relationships for years, building legitimacy and aiding negotiations.

"My big takeaway from this is that it really benefited us to go slowly and thoughtfully, to think about who our partners could be, and engage with local stakeholders to end up with a negotiated agreement that allows for true buy-in from both sides," says Yarbrough, who previously served as an assistant public defender in the Davidson County Public Defender's Office in Nashville. "That has made all the difference. We were able to craft a very nuanced, specific, detailed system together."

The reasons to reform and reduce the money bail system are many. It's morally just. It keeps people connected to and productive in their communities, their jobs, and their families. With fewer people in them, it costs much less taxpayer money to run jails. And above all, money bail exacerbates a system that preys on people of color and low-income communities.

"These are lives we're talking about," says Just City's Spickler. "When the people of this community are living and struggling against poverty, we use that as a reason to hold them in detention. That has no business in a modern community that wants to succeed and prosper." ■

ADVANCING JUSTICE IN THE SOUTH


The ACLU's Southern Collective, 12 state affiliates working together to strengthen civil rights and civil liberties in the South, has achieved a number of recent victories for criminal legal reform. In June, after a year of pressure from the ACLU of Louisiana, the U.S. Department of Justice announced it was launching an investigation of civil rights violations by the Louisiana State Police, including excessive force and racial violence against Black and Brown people. The Louisiana affiliate's Justice Lab, an initiative aimed at ending racist policing, has filed more than 40 lawsuits against 25 police departments around the state.

Also in June, a federal appeals court unanimously denied qualified immunity to Virginia corrections officials in a class action lawsuit filed by the ACLU of

Virginia. The Virginia affiliate also began statewide public screenings of its documentary *InJustice: Hidden Crisis in Virginia's Prisons* in the fall.

In August, the ACLU of Mississippi launched its Voting Rights Restoration Project to help the more than 230,000 Mississippians who have lost their right to vote because of a past felony conviction. And the ACLU of Florida created the Florida Immigrant Detention Database to identify patterns of abuse and neglect in the state's immigrant detention centers; as of November, more than 300 complaints had been filed.

To learn more about the work of the Southern Collective, visit aclu.org/southerncollective.

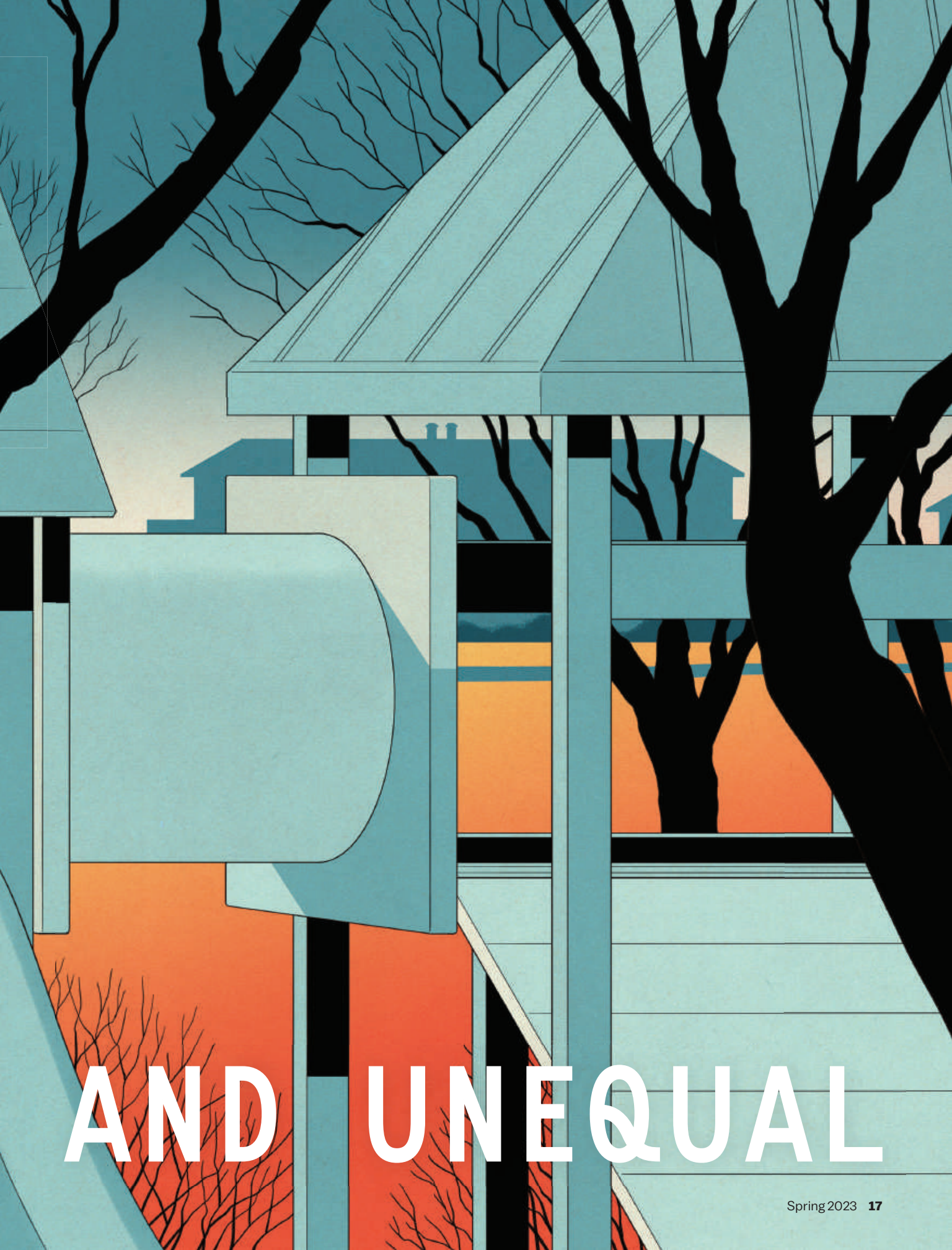


A California school district maintains an illegal education system that segregates Black students and children of color with disabilities. The ACLU is suing the district and the state to provide equal opportunities for all students.

BY CHARLEY LOCKE

ILLUSTRATIONS BY ANUJ SHRESTHA

SEPARATE



AND UNEQUAL

MARK S. LOVED kindergarten in Michell Redfoot's special education class. He practiced grade-level skills, such as the sounds that different letter combinations make. He also learned ways to navigate the classroom, including calming mechanisms for when he felt upset or frustrated. Mark's parents, Rosa and Lucas, immigrants from Latin America, had been worried when they first enrolled him at Willow Cove Elementary, a public school in Pittsburg, California. Their son had been diagnosed with autism and was navigating school as an English-language learner. So they were relieved when they learned he would stay with Redfoot for first grade. "We were so lucky we got Ms. Redfoot," says Rosa. "Mark wanted to go to school every day."

But outside of his teacher's care, Mark began to face problems at school. It started when a back injury forced Redfoot to take medical leave mid-year. Rosa received calls from the school administration almost daily, reporting that Mark was hitting other kids on the playground. When she would arrive to pick him up, Mark would be quietly crying. On the ride home, he'd tell her the context for his outburst, like how another boy kicked him first, or how a kid wouldn't let him take a turn on the slide.

Soon after, Willow Cove reassigned Mark to a playground with younger students and more adult supervision. Concerned, Rosa would stop by the school at lunchtime to check on her son. "I heard kids on the [old] playground laughing and playing, and he'd be there alone, with an aide texting on her phone," she says. "He was by himself every day."

Worried about how the lack of social interaction would impact her son, Rosa considered complaining—but then Redfoot returned from medical leave. "She told me, 'They cannot isolate him like this,'" says Rosa. Within a couple weeks, Mark was permanently back on the playground with his age group, happily playing with his classmates at recess.

Michell Redfoot's first exposure to education for autistic students was as a parent. Her older son is autistic, and as a mom, she learned how to advocate for behavioral interventions in the classroom. Redfoot's explicit aim for her students with disabilities is to equip them to learn in the general classroom, a goal that's widely shared by special education advocates and supported by federal law. "I felt like I couldn't ask other people to have high expectations for children with autism, like my son, if I wasn't willing to put in the effort myself," she says. "I come into the classroom with high expectations and to transition my students into regular education."



BLACK STUDENTS WITH
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WITH DISABILITIES.

Redfoot's high expectations are not shared by the district or district administrators. When preparing another student's Individualized Education Program (IEP) for second grade, she was instructed to lower expectations going into the next school year, and change or delete current goals that were tied to statewide academic standards for the student's grade level. The district also interfered with Redfoot's attempts to teach disabled students using evidence-based strategies.

"The director sent an email saying that I needed to rewrite [my student's] IEP goals because I had aligned them to grade-level goals," says Redfoot. "It was horrifying, infuriating, enraging to get that directive." Faced with the risk of losing her job, she followed the order to formally lower her expectations and goals for a student with autism. But as she did, she also started to reach out to others who might be able to help—including the ACLU.

Both Mark's family and Redfoot are plaintiffs in an ongoing case, filed jointly by the ACLU of Northern California, the ACLU of Southern California, the Disability Rights Education & Defense Fund, and the law firm Steptoe & Johnson LLP, against the Pittsburg Unified School District (USD), the California Department of Education, and the State of California. Filed in September 2021, the case alleges that the district has maintained a separate, unequal, illegal educational system, segregating children of color with and without disabilities, English-language learners, and Black students into inferior learning environments and failing to provide them with equal educational opportunities.

"This lawsuit at its heart is really about a school district that continuously ignores its legal obligations to students," says Ana Mendoza, a staff attorney at the ACLU of Southern California and co-counsel on the case. "We're hoping that with this lawsuit, we can compel the state to actually do its job and make sure that school districts are providing equal educational access to all of its students."

The case brings together complaints from five plaintiffs—Mark S., Redfoot, another student, and two parents of former and current students—to paint a broad picture of segregation within the Pittsburg USD, both in terms of special education and discipline for students of color. The case has three components: first, the district overidentifies students of color as having disabilities; second, the district then mistreats disabled students, failing to provide them with the legally required support and instead pushing them into inferior special education classrooms; and third, the district levies disproportionate discipline, such as suspension, on Black, Indigenous, and other students of color, with and without disabilities.

As federal courts have become increasingly hostile... the ACLU has focused on securing and advancing civil rights in state courts.



RESEARCH ABOUT THE Pittsburg USD bears out these claims: In the 2017-2018 school year, 14.7 percent of Black students in the district were identified as having disabilities, compared to 10.2 percent of all students districtwide. Once the district diagnoses students with disabilities, it segregates them outside of general education classrooms more than most other districts in California, data shows. The research also shows that students with disabilities in the district suffer academically, with fewer than 5 percent meeting grade-level standards in English or mathematics.

Furthermore, Black and Indigenous students in Pittsburg were disciplined at the highest rates for “disruption/defiance,” a highly subjective “offense” and the most likely to be infected by racial bias. Black students with disabilities were suspended or expelled at twice the rates of white and Latinx students with disabilities.

These discriminatory policies have long-lasting effects on students. In second grade, taught by an educator who did not believe in teaching grade-level material to children with disabilities, Mark spent days watching Disney movies instead of receiving instruction.

At home during the COVID-19 pandemic, Rosa saw firsthand how Mark’s education differed from that of her younger son, a first grader in general education classes. “Mark wasn’t learning anything, while my other son was in the other room with a clear class schedule,” she says. “I was glad in a way that we were home, because what would have happened if he was in the actual class?” Now in third grade, Mark is still recovering from the missed instruction.

The case has already had an impact. In March 2022, the Contra Costa County Superior Court ruled in support of the ACLU’s plaintiffs, rejecting the state and school district’s attempt to dismiss the lawsuit and holding that disabled students have a right to “free and appropriate public education” under the California Constitution.

The decision was a landmark ruling for California students and an affirmation of the broader aims of the ACLU’s statewide education equity team, led by Mendoza and her co-counsel, Linnea Nelson, senior staff attorney in the Racial & Economic Justice Program at the ACLU of Northern California. “Regardless of your race, religion, immigration status, income, foster youth status, or disability, schools should provide you with a high-quality education, where you’re given the tools necessary to succeed,” says Mendoza.

These efforts are part of a new state-focused strategy from the ACLU. As federal courts have become increasingly hostile to rights protections in the past five years, the ACLU has focused on securing and advancing civil rights in state courts, seeking protections above and beyond what federal law provides. California’s education equity team is one of many pursuing this approach. Elsewhere, the ACLU of Louisiana sued a school board after a 10-year-old Black student with disabilities was placed in a chokehold and arrested after an outburst prompted by bullying. The ACLU of Pennsylvania filed a federal complaint on behalf of LGBTQ students about a school culture where administrators encouraged homophobic behavior.



THE ACLU'S EDUCATION EQUITY TEAM advocates for students who are discriminated against for multiple reasons including their race. In Pittsburg USD, a student of color is more likely to be diagnosed with a learning disability and face exclusionary discipline. Once diagnosed with a learning disability, they are likely to be denied quality instruction and segregated into an inferior classroom. “For our clients themselves, there’s tremendous intersectionality in their experiences of the policies,” says Nelson. “That lived experience of our plaintiffs is what we’re trying to bring across and challenge in the district’s policies.”

In Mark’s case, that meant entering Pittsburg USD as a child with autism and learning English as a second language. Another Pittsburg student involved in the ACLU’s case, Nyiah, faced discrimination based on her learning difficulties, but that was inextricable from her experience in the classroom as a Black girl.

After moving to Pittsburg from St. Paul, Minnesota, Nyiah had been excited to start third grade at Heights Elementary School. But she began to face trouble almost immediately. As her mother, Jessica Black, remembers it, the first calls home were about Nyiah bothering other kids or starting fights. Concerned about her daughter, Jessica opted to

spend two days a week at the school observing her daughter’s classes. She saw that other students bullied her daughter, who would often react in self-defense. “I can remember her trying to make friends, and people running away from her, saying she was fat,” says Jessica. “Her self-esteem and self-confidence dwindled very quickly.”

At home, Jessica tried to strike a balance, disciplining her daughter for responding to bullying with violence, while also helping her feel better about herself. “I remember practicing affirmations with her,” says Jessica. “I would ask, ‘Who’s your best friend?’ and she would say, ‘I’m my own best friend.’” Most days, Nyiah would come home from school in tears—but in the moment, she’d retaliate. When a boy called her names and spit on her, she threw an apple at him; when a girl elbowed Nyiah, she hit her in the back. For the 8-year-old, it was both traumatic and confusing. “I was the one being bullied and the one being punished,” says Nyiah. “It made me ask, ‘What’s wrong with me?’”

To access a fair education, Nyiah had to leave the state of California.

Jessica was told by the district that she was required to place her daughter in a counseling-enriched class for students who need additional behavioral and therapeutic support. Over the next few years, Nyiah would cycle through counseling-enriched classes, general education classes, and suspension, all within Pittsburg USD.

Jessica had heard that if Nyiah had an IEP, she'd have further legal protections in school. (Districts face additional regulations around suspending students with disabilities.) So, in January of Nyiah's sixth-grade year, she successfully advocated for her daughter to be evaluated. "I did that as a protection for her," says Jessica. Nyiah was found eligible for an IEP with a specific learning disability and an executive functioning deficit based on difficulty with attention and organization. As a result of her IEP, Nyiah would receive a little support from the district, like some tutoring, as she attempted to make up for an enormous loss of learning.

Then, in June, while a teacher's back was turned, a student flipped a chair. The teacher accused Nyiah and called the vice principal, who then called school security. Nyiah was placed on a 5150 hold, involuntarily restrained, and sent to an emergency room. A 5150 is a last resort, only to be used when a student has a mental health crisis, although they are used at an outsize rate in Pittsburg USD.

"I was at work in Oakland, about 30 miles away, when I got the call," says Jessica, who had to figure out on her own that her daughter was sent to a hospital in another city. "It blew my mind that adults would do something that serious to a child."

After one more year of being moved around—including a stint where she was sent to a school for students with autism, which Nyiah does not have—the district offered the family one other choice: independent study. Exhausted, Jessica agreed. "They posed it to me like all they had to do was provide an opportunity for her to get an education, and this is what we're providing," she says. "They didn't give me any other option."

For the next three years, Nyiah learned at home, meeting with a district-provided tutor for around five hours a week and otherwise working through course materials on her own. By the end of 10th grade, she and her mom agreed that she'd be better off moving back to St. Paul, where they were from, and staying with family. To access a fair education, she had to leave the state of California.

TODAY, AFTER A YEAR of public school in Minnesota, Nyiah is thriving. At her new school, "they actually care about me and my education," she says. "They don't treat me like a kid who's bad, more like, we need to give you the extra help you need and deserve." In Pittsburg, she regularly failed math; in St. Paul, geometry is one of her favorite classes. Nyiah is on track to graduate at the end of her senior year and has been accepted to cosmetology school next fall.

Within the district, filing the lawsuit has already made a difference for students like Mark. "They weren't taking the time to offer what he needed until the lawsuit," says Rosa. In the 2021-22 school year, the district appointed a new director of special education. And while the new director represents an improvement, the district still requires systemic change.

For her part, Redfoot is grateful that the district is stepping up. But she wishes it didn't take a years-long lawsuit and the resulting publicity to adequately support student learning. "The battle of convincing administrators and the school board to address these problems makes it nigh-on impossible to meet student needs," she says. "It should just be: The student needs this, so let's give the student what they need. We're not asking for ponies here. We're asking for a meaningful education." ■

For resources on advocating for marginalized students and challenging inequality in K–12 schools, visit aclu.org/educationequity.

Aiden Vasquez, who lives in Iowa, was denied Medicaid coverage by the state for gender-affirming surgery.

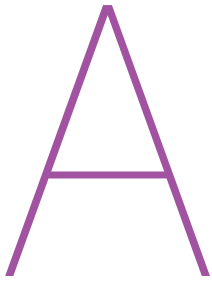


The ACLU of Iowa is engaged in a multiyear battle to secure medically necessary health care for transgender people.

BY SHAYLA LOVE

PHOTOGRAPHS BY LAUREL GOLIO

STANDARD OF CARE



AIDEN VASQUEZ has known since he was 2 years old that he didn't identify with the gender assigned to him at birth. The adults around him insisted it was a phase. "At the age of 15, I gave up on trying to advocate for myself because, honestly, I didn't know what it was," Vasquez says. "I just knew I wasn't in the right body."

The feeling never went away. For decades, Vasquez experienced gender dysphoria, distress caused by how the sex assigned to him at birth conflicted with his gender identity, resulting in depression and self-harm. According to the American Medical Association, if untreated, gender dysphoria can lead to significant psychological distress and can even be fatal.

At 48, Vasquez saw the actress Ruby Rose, who is gender fluid, on an episode of *Orange Is the New Black*. "It hit me out of nowhere," he remembers. "She can present either way, why can't I change—transition? Why can't I be who I really am?" He soon connected with a transgender acquaintance, and they talked for hours. The next day, Vasquez called a medical clinic in his home state of Iowa.

Gender-affirming health care is essential for individuals experiencing gender dysphoria, but people often face significant barriers and discrimination trying to access the care they need. In Iowa, the ACLU has been engaged in a multiyear battle with the state to ensure that gender-affirming care is covered by Medicaid so that everyone's medical needs are addressed.

"It is incredibly problematic to have politicians stepping in between a person and their medical doctor and a consensus among medical professionals about the standard of care," says Rita Bettis Austen, legal director of the ACLU of Iowa. "It could not be more harmful for a person's health and welfare, but also for their autonomy and ability to direct their own lives in the most intimate and important ways."

The ACLU has filed multiple lawsuits on behalf of Vasquez and Mika Covington, both of whom were denied Medicaid coverage for gender-affirming surgery.

Covington has a unique perspective on health care denied to trans people because she's seen the same interventions treated differently in other contexts. She has a rare genetic

disease, cystinosis, caused by an abnormal buildup of the amino acid cystine. Men with cystinosis often undergo testosterone replacement therapy, which is covered by Medicaid across the country.

"But if the same person is trans, or identifies as a different gender than they were assigned, and wants estrogen, there [are] all these discussions about prior authorizations, and is this medically necessary or not," Covington says. "It's not questioned for a cisgender person."

She has also experienced discrimination within the health care system more broadly. In 2012, Covington was refused a kidney transplant in Nebraska because she was transgender, and the hospital staff said she wasn't psychologically fit to undergo the surgery. This happened twice, which led her to move and establish residency in Iowa where she was able to get her transplant in 2013.

At the time, there weren't many organizations supporting trans rights, and Covington didn't know many trans people her own age. She started to develop negative coping mechanisms and suicidal thoughts. When she tried to go to therapy, it was hard to find a therapist who understood what she was going through.

"Both my physical health and my mental health were taking a toll because I didn't know how to cope," she says.

After making his appointment, it took Vasquez a couple days to take his first testosterone shot. He's a spiritual, though not religious, person, and he says he first asked God to give him the peace of mind to change his body. When he took the testosterone two days later, he vowed to find a way to help others.

He looked up transgender support networks on Facebook, finding one called the Transgender Parents/Family Support Group. After reading the posts, he realized that his calling wasn't to mentor transgender children but their parents. Eventually, Vasquez started his own group called Trans Family Love and Support, which now has 2,000 members. In December 2021, the founder of Transgender Parents/Family Support Group, which has more than 16,000 members, passed ownership to Vasquez.

"Between the two groups, I have the ability to help, mentor, and share my experiences with over 18,000 people—not just in the United States, but all over the world," he says. "That is

Less than half of transgender people with Medicaid have access to the coverage for the care they need through state laws.

“It’s been a long, long journey,” says Mika Covington, who’s part of the ACLU’s lawsuit to secure Medicaid coverage for transgender Iowans. Covington is pictured at the LGBTQ Iowa Archives & Library.



basically what keeps me going. That's why I get up every day."

He's seen transformations in parents who come to the groups unsure about what their trans children are experiencing and how they can support them. Those same parents go on to mentor other parents. "It's the most rewarding thing in the world, because I can say that I had a part in that," Vasquez says. "I was able to help someone, and they in turn grew and are helping others—which we call the ripple effect."

EVEN AFTER starting hormone therapy, Covington and Vasquez continued to experience gender dysphoria. They both qualified for Medicaid in Iowa, and gender-affirming care is medically necessary for them to treat their dysphoria, their doctors have said.

Medicaid is the largest insurer in the United States, and it provides low- or no-cost health care to almost 90 million people. LGBTQ people are more likely than non-LGBTQ people to be living in poverty and to be uninsured, so their ability to receive the correct coverage for medical care under Medicaid is vitally important.

Medicaid coverage for transgender health care has only been available in some states, and usually is a result of court rulings—like what the ACLU is pursuing in Iowa. A 2019 report from the Williams Institute on Sexual Orientation and Gender Identity Law and Public Policy found that only 18 states and

Washington, D.C., have chosen to specifically include coverage for gender-affirming care under their Medicaid programs. Twelve states exclude coverage for such care, and 20 states have not expressly addressed coverage. An estimated 1.4 million adults identify as transgender in the U.S., and 152,000 of them are enrolled in Medicaid, according to the report. Less than half of transgender people with Medicaid have access to the coverage for the care they need through state laws.

In Iowa, it's been a long and winding legislative road to try and ensure that transgender people can get health care coverage through Medicaid. Back in 2017, as part of a wider strategy to secure rights in state court beyond what federal law allows, the ACLU and its long-standing partners at Nixon Peabody LLP filed a lawsuit on behalf of Carol Ann Beal and EerieAnna Good in response to an Iowa Medicaid ban for coverage of gender-affirming surgery. The state district court ruled in favor of Beal and Good in 2018, blocking the ban under the Iowa Constitution's equal protection guarantee and the Iowa Civil Rights Act. In 2019, the Iowa Supreme Court upheld this victory under the Iowa Civil Rights Act, though it didn't make a decision on whether a ban on Medicaid coverage was in violation of Iowa's constitution.

Living in Iowa and being on Medicaid, Covington felt there was no way for her to get the procedure she needed to align her body with her gender. "It exacerbated my depression, suicidal thoughts, and self-harm," she says. Then, she read the news about the Iowa Supreme Court ruling. "I was pretty

SUPPORTING TRANS YOUTH

Gender-affirming health care can be lifesaving for transgender youth. But across the country, state legislatures are dramatically increasing efforts to pass laws to block treatment for minors. In 2022, more than 150 anti-trans bills were introduced in state legislatures that would ban access to health care for trans youth. More anti-

trans bills are expected with the start of new legislative sessions this year.

The ACLU is fighting in court to ensure that trans youth can make medical decisions in collaboration with their doctors and parents, and not be obstructed by laws that target them for their sex or transgender status.

In Arkansas, the ACLU is challenging a law passed in 2021 that bans gender-

affirming care, such as hormone therapy, for transgender minors. Medical organizations around the country have voiced their opposition to the Arkansas law and similar bills.

Providing access to health care supports transgender kids' ability to pursue a flourishing and healthy life. As Sabrina Jennen, a trans teenager and plaintiff

in the challenge against Arkansas, said to the ACLU: "Before I started getting care, I had a really rough time. Now I'm happy for the first time since I can remember. I started playing the acoustic guitar, and I'm looking forward to college. I can't imagine going back."

Take the pledge to support trans youth at aclu.org/transjustice.

The attack on transgender health care coverage is in line with increased restrictions on other medical care, including state bans on abortion.

shocked that it was a unanimous decision,” she says. She thought to herself, “I can get this scheduled in the fall of that year, and be able to move on with my life.”

But because of the gap left by the Supreme Court on the question of constitutionality, the Iowa Legislature passed a bill in 2019 that amended the Iowa Civil Rights Act and removed protections against discrimination, enabling Medicaid to deny coverage for gender-affirming care.

Iowa Medicaid began to discriminate against people, like Covington and Vasquez, who were trying to schedule their care. Weeks after the bill passed, the ACLU filed a lawsuit on behalf of Covington and Vasquez to attempt to block the new, discriminatory law. In early 2021, Covington and Vasquez were denied Medicaid coverage for their gender-affirming surgeries, and the ACLU filed another lawsuit. Then in November 2021, the court sided with the ACLU, forcing the state to stop blocking Medicaid coverage for transgender patients, and this decision remains in place today.

Covington and Vasquez’s case is still pending before the Iowa Supreme Court, but the state district court decision from 2021 has taken effect. Iowa has now stopped denying pre-authorization for surgery—which it had been doing due to the state’s discriminatory law.

THE ATTACK on transgender health care coverage is in line with increased restrictions on other medical care, including state bans on abortion. That these treatments and procedures are medically necessary care is not up for dispute, even as legal battles continue.

Every mainstream medical association has come out with statements stressing the medical necessity of gender-affirming care, and research has shown that having access to this care improves mental health and general well-being of transgender people. The Trevor Project’s 2021 National Survey on LGBTQ Youth Mental Health found that 52 percent of young people who identified as transgender or non-binary considered suicide in the last year, and 20 percent attempted suicide. One way to improve mental health is through access to gender-affirming care.

Covington and Vasquez are both tired of waiting. “I’m exhausted,” Covington says. “It’s been a long, long journey to get where we are now.” Covington says she’s worried that something will happen that is going to delay or postpone her care again.

“The government passed that amendment and put a hold on my life for the past three years,” Covington says.

For Vasquez, there’s a direct connection between medically transitioning and being able to help other people. “This is what I vowed to do when I took that first [testosterone] shot,” Vasquez says. “I’m able to save and change lives.”

When he is having a dark day, he’ll go online and share his feelings with his support groups. “Ever since litigation started, it’s gotten worse, because every time we got shut down, it was soul-crushing to me,” he says. “I wanted to give up so many times, but knew that I started this. I dedicated my life to this litigation, and I’m going to finish this.”

Lately, Covington has been working on writing a letter to her future self, for when she wakes up from her gender-affirming surgery. The letter will remind her why she’s gone through all of this, because it will allow her to live authentically. “I don’t know what it’s going to be like after surgery, other than I will fully be who I am,” she says.

One activity she’s looking forward to reclaiming is swimming in public, which she hasn’t done since middle school. “I love swimming and being underwater, but I haven’t been able to do it because of being so self-conscious,” Covington says. There’s a patient and family conference for people with cystinosis in Long Beach, California, each year, and every time she’s gone she’s wanted to go out to the ocean and swim.

Though not all transgender people need or want surgery, to Vasquez, that’s what will make him feel complete. “I don’t feel that I’m going to be whole until I can finish this process,” he says. He calls it renovating his house, and his home renovation is almost complete. He’s 54 years old now, and is eager to go through the process.

“I entered the fight for myself,” Vasquez says. “But I’ve stayed in the fight for myself and every other Iowan that has Medicaid that is either starting now or is going to start. I want to make sure they don’t ever have to go through this, and that they’ll be able to get the care they need when they need it.” ■



VOICES

Rosseli Guerrero (left) created the exhibit, where visitors could listen to audio interviews (below) with undocumented people.



DACAMENTED

Life Paths

Immigrants in Idaho are collaborating with the ACLU to tell their stories.

Last fall, the ACLU of Idaho held an exhibit titled *Los Caminos de la Vida* to give insights into the lives of 11 undocumented individuals in Idaho—a symbol of the 11 million undocumented people across the United States. Featuring audio interviews and photos that protected their identities, the exhibit aimed to change the narrative about Idaho’s immigrant community and open a dialogue about what it means to be undocumented there. It was the latest installment in the Idaho affiliate’s project “DACamented,” which launched in 2020 and began by telling the stories of Deferred Action for Childhood Arrivals (DACA) recipients in the state. —TOM VELLNER



Justin Johnson (left) and Jonathan Davis-Sayles have their photo taken with the Larry O'Brien championship trophy at the Milwaukee County House of Correction.

Championing Voting Rights with NBA Champions

The ACLU of Wisconsin has teamed up with the Milwaukee Bucks.

Since 2020, the ACLU of Wisconsin has been championing voting rights with NBA champions the Milwaukee Bucks. The team has used its massive platform to support the Wisconsin affiliate's racial justice and voting rights work through philanthropy, selling voting-themed T-shirts, and featuring ACLU staff on the Bucks' website and social media to discuss voter suppression.

Wisconsin is among a handful of states where a person can vote in jail if charged with a misdemeanor, but most people don't know that they're eligible. Of the 13,000 people incarcerated in the state's jails, only 50 were reported to have voted in the 2020 election.

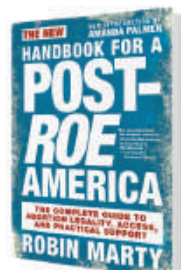
Last spring, the ACLU of Wisconsin held a voting rights event at the Milwaukee County House of Correction to emphasize that not only do the individuals incarcerated for a misdemeanor have the right to vote, but they also have the power to elect those who shape the criminal legal system, including judges and prosecutors.

The Bucks surprised the attendees by bringing out the NBA's Larry O'Brien championship trophy at the end of the event. —TOM VELLNER

MIKE DE SISTI/USA TODAY NETWORK

Protect Voting Rights

The Freedom to Vote: John R. Lewis Act will begin to dismantle voting barriers that discriminate against voters of color. Send a message to your senators urging them to pass this crucial law at aclu.org/action.



A Post-Roe Guide

Robin Marty's *The New Handbook for a Post-Roe America* has been updated to cover the reproductive rights landscape since the disastrous *Dobbs* ruling last year. Now director of operations of the West Alabama Women's Center, Marty is the former communications director for the Yellowhammer Fund, an abortion advocacy organization in the Deep South, and has been a journalist on the front lines of the battle for abortion access for more than a decade. Here, she assesses the scope of state abortion restrictions and provides readers with essential tools for getting the health care they need: planning for emergencies and acquiring financial support, self-managing abortion care, avoiding online surveillance, and locating local clinics. Unique in its breadth, Marty's user-friendly manual is crucial support for pregnant people nationwide.

—JAY A. FERNANDEZ

Visit nnaf.org/aclu to support more than 90 local abortion funds across the country.

Our Bodies, Ourselves

Illustration and text by Eugenia Mello

In the context of continuous attacks on our bodily autonomy—undermining our right to choose and our connection with our bodies—this illustration is a piece of resistance. A body, alone in an opening of a hermetic grid that parallels the open mouth of a beast, resists, empowered by its vulnerability. The rainbow of color is a protection field and a flag of resistance to the binary aggression of the black and white extremes.



For Leona Tate, the Past Informs the Future

The civil rights legend is leading the fight in the very building she desegregated.

NAME: Leona Tate
LOCATION: New Orleans
FOCUS: Racial Justice
ACTIVIST: Since 1960

When Leona Tate walks up the steps to her office, she remembers the first time she entered the building—as a 6-year-old going to McDonogh 19 Elementary School, despite the jeers of white parents. On November 14, 1960, Tate and three other girls—Ruby Bridges, Gail Etienne, and Tessie Prevost—became the first Black

students to desegregate all-white public schools in New Orleans.

“We were introduced to racism here,” says Tate, speaking to the ACLU from the Leona Tate Foundation—housed in what used to be McDonogh 19. “And this is where I want it to end.”

More than 60 years after her first steps toward activism, Tate is still leading the way in her community. Hurricane Katrina flooded McDonogh 19 and left it shuttered for nearly 15 years—until Tate led an effort to develop it into a community

center. The top two floors hold 25 affordable housing units for residents over 55, while the main floor houses the TEP Center, which stands for Tate, Etienne, and Prevost—the girls who integrated McDonogh 19. Supported by the ACLU, the TEP Center offers workshops about undoing racism and exhibits about the living history of civil rights in New Orleans.

“This is a site dedicated to racial healing,” says Tate. “I hope what we’re doing here can be a blueprint.”

That’s not all: When Alanah Odoms, the first Black woman to become executive director of the ACLU of Louisiana, launched a first-of-its-kind Black Donor Network in 2022, Tate was named a participant of honor. The network of 30 donors regularly meets to strategize how they can further the ACLU of Louisiana’s goals, expanding the definition of philanthropy to include all the ways that Black communities support each other—from scholarships to neighborhood cookouts.

“We are givers,” says Tate. “We have every opportunity to invest in ourselves, and if we can learn how to do that, we can form a better community.”

—CHARLEY LOCKE

Leona Tate stands outside the TEP Center, housed in the former McDonogh 19 Elementary School.



Advance Racial Justice

You can support the TEP Center at tepcenter.org/donate. To learn more about the ACLU of Louisiana’s Black Donor Network, visit laaclu.org/bdn.



Ella Scott visits the Teen Hub at the Austin Public Library, which has partnered with her banned book club.

The Banned Book Club

By Ella Scott

During my freshman year, the Leander Independent School District began removing books from the English curriculum at my school, Vandegrift High School (VHS), in Austin, Texas. With the majority of students being virtual in 2020, many were unaware this was happening. My friend Alyssa and I heard the news through a teacher and, after finding the list of removed books, we recognized titles we had read and loved, like one of my favorites, *The Handmaid's Tale*. Alyssa and I immediately knew we had to do something to show that students not only wanted but *needed* these books in the classroom. We reached out to our friends to help us form the VHS Banned Book Club.

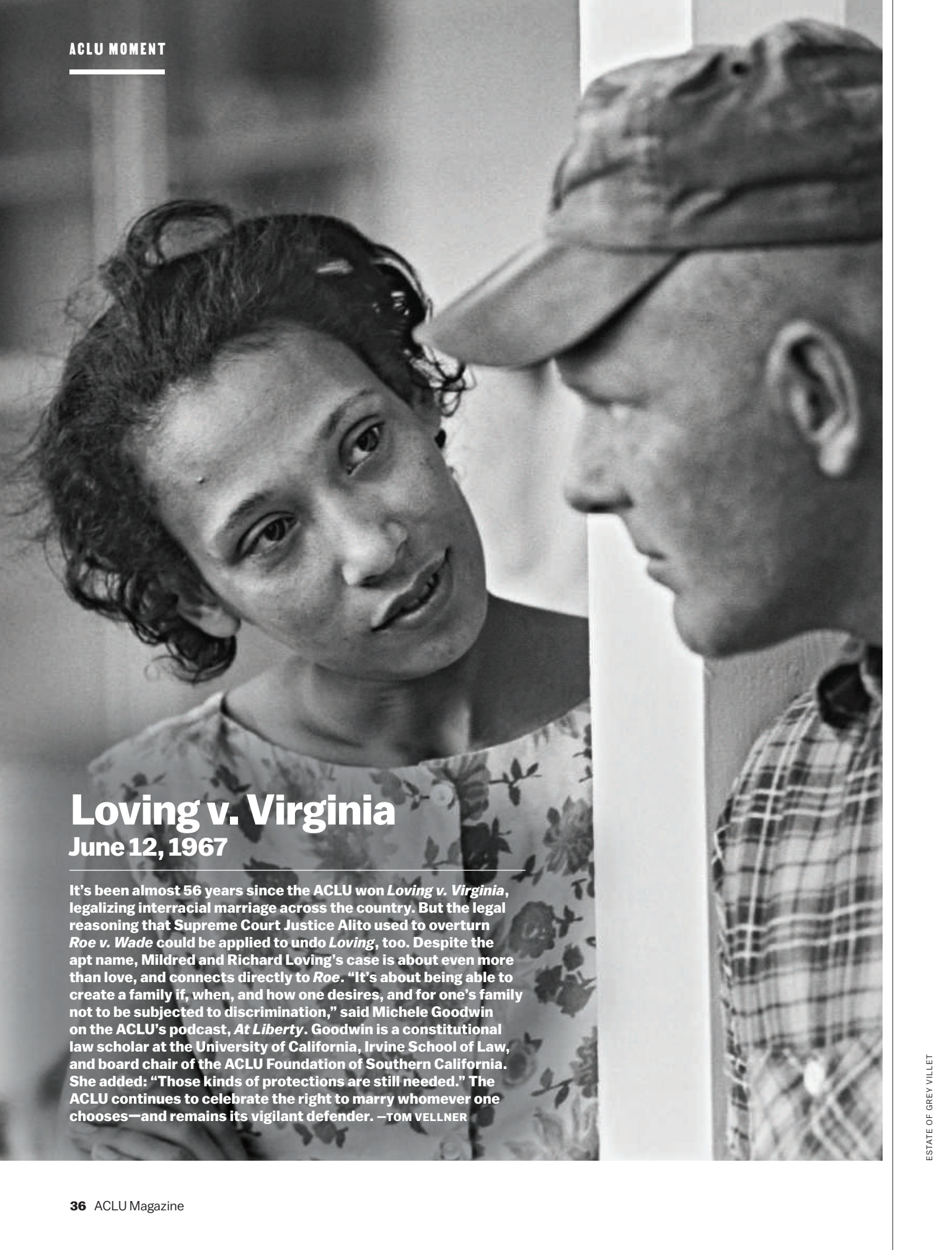
In our first year, we read seven books that had been removed from our school district's English reading lists. For each book, we created a statement that we sent to the reconsideration committees—groups of teachers, parents, and librarians that review books and decide whether they remain in our classrooms. Our statements are an overview of the conversations we have in our meetings, sharing

what we were able to learn through our reading and discussion, and how this aided in our understanding of the world.

Our club was small in the beginning; at our first meeting, only four people showed up, two of which were Alyssa and me. Despite our small number, we kept meeting to raise student awareness, and now we have a total of 28 members. As we read more and more books, I noticed just how much our club had grown—not just in size, but in confidence. What started as a few friends meeting to read banned books has turned into a community of confident and articulate students who preach their love for these books with passion.

When adults ban books, they attempt to silence ideas that seem unfamiliar to them, concepts that they're afraid to confront. But these books break a barrier and allow students to start conversations about underrepresented ideas and themes—and light that fire. Reading these stories allows us to learn about our society and the world we will one day be responsible for navigating. These books are so much more than what you read in English class; they're an opportunity to start conversations with other students and learn from other perspectives, and countless students and I are prepared to fight for our right to learn.

As states nationwide introduce classroom censorship bills and book bans, join the ACLU's fight for students' right to learn at aclu.org/righttolearn.



Loving v. Virginia

June 12, 1967

It's been almost 56 years since the ACLU won *Loving v. Virginia*, legalizing interracial marriage across the country. But the legal reasoning that Supreme Court Justice Alito used to overturn *Roe v. Wade* could be applied to undo *Loving*, too. Despite the apt name, Mildred and Richard Loving's case is about even more than love, and connects directly to *Roe*. "It's about being able to create a family if, when, and how one desires, and for one's family not to be subjected to discrimination," said Michele Goodwin on the ACLU's podcast, *At Liberty*. Goodwin is a constitutional law scholar at the University of California, Irvine School of Law, and board chair of the ACLU Foundation of Southern California. She added: "Those kinds of protections are still needed." The ACLU continues to celebrate the right to marry whomever one chooses—and remains its vigilant defender. —TOM VELLNER



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