

STAND

TRUMP:
Report from the
Front Lines

SUMMER 2017

FOR
PASSIONATE
GUARDIANS
OF INDIVIDUAL
RIGHTS AND
LIBERTIES

United We Resist

REP. ELEANOR
HOLMES NORTON
WHY "GOOD GIRLS" REVOLT

**Dissent &
Surveillance**
ACTIVISTS FIGHT BACK

ACLU RANKS SWELL AS AMERICANS RISE UP

STRENGTH IN NUMBERS



PICTURED: SHAADIE ALI,
ACLU ACTIVIST AND STUDENT LEADER

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ACLU

The Issue

THE AMERICAN CIVIL LIBERTIES UNION



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JUSTICE FROM THE INSIDE OUT

“Those closest to the problem are closest to the solution” is the mantra of a movement of formerly incarcerated people, including the Rev. Kenneth Glasgow, right, who have something to teach us all about reforming the criminal justice system.

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WE THE PEOPLE

The election of President Trump has brought an unprecedented surge of new members to the ACLU, eager to join the resistance and defend our civil liberties. Meet just a few of the 1.6 million (and growing!) members who are the force behind the ACLU’s new “People Power” movement.

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RESISTANCE REPORT: FIGHTING TRUMP ON FOUR KEY FRONTS

The ACLU and its allies have been opposing Trump’s anti-civil-liberties agenda from the moment he took office—but as our report from the front lines shows, the fight for our liberty and dignity has only begun.

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STANDING TOGETHER

IT WAS HELEN KELLER, A FOUNDER OF THE ACLU, who said: “Alone we can do so little. Together we can do so much.” Those words were never truer than today. What the ACLU has accomplished over the past six months is due in no small part to people coming together to stand up for their rights, and stand by the ACLU, as never before.

With the power of the people behind us, the ACLU is in high gear—in the courts, on Capitol Hill, in legislatures across the country and on the streets—to push back against the Trump administration’s efforts to undo much of the civil liberties gains of the past quarter-century.

In this issue, we show you what we can accomplish when we come together. “The Revolution Will Be Televised, Archived & Analyzed” (p. 18) tells how one community group shut down police monitoring of black activists through social networks,

and details efforts to help other communities organize and push for privacy reform. “Justice from the Inside Out” (p. 11) brings you inside a movement for criminal justice reform led by formerly incarcerated people—a group of extraordinary individuals who emerged from a broken system, determined to fix it. And in “We the People” (p. 24), we take a closer look at just a few of the many ACLU members who inspire us every day.

While it’s difficult in a biannual magazine to keep current with the Trump administration’s latest affront to civil liberties, we do our best with “Resistance Report: Fighting Trump on Four Key Fronts” (p. 34). It highlights the infamous Muslim ban and attacks on voting rights and LGBT rights, plus takes a behind-the-scenes look at the launch of the ACLU’s People Power movement. And in our infographic “Fail to the Chief” (p. 9), we illustrate the ACLU’s history of speaking truth to presidents.

It’s clear that standing together is the best way—maybe the *only* way—to face down this unprecedented threat to our civil liberties. With the power of the people on our side, we can and will succeed. Thank you for standing with us.



Anthony D. Romero
EXECUTIVE DIRECTOR



ABOUT US: Founded in 1920, the American Civil Liberties Union (ACLU) is our nation’s guardian of liberty, working daily in courts, legislatures and communities to defend and preserve the rights and liberties that the Constitution and laws of the United States guarantee everyone in this country. Our critical work in the courts and in legislatures across the country is possible only because of the generosity of our members. Please give at [aclu.org/donate](https://www.aclu.org/donate).

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STAND
VOLUME 4, ISSUE 2
SUMMER 2017



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SPECIAL THANKS TO

The Guttmacher Institute, for research contributions to "By the Numbers: Reproductive Rights" (p. 5).

Samuel E. Walker, professor emeritus of criminal justice at the University of Nebraska at Omaha, for providing source material for "Fail to the Chief" (p. 9) from his book, *In Defense of American Liberties: A History of the ACLU* (Southern Illinois University Press; 2nd edition, 1999).

COVER PHOTO by Kathryn Gamble

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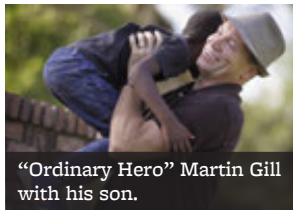
STAND magazine (ISSN 2378-8380) is a publication for members and supporters of the American Civil Liberties Union (ACLU). Send changes of address and questions about your ACLU membership to membership@aclu.org; mail them to ACLU, 125 Broad Street, 18th Floor, New York, NY 10004; or call 212-549-2500. Send editorial correspondence specific to the publication to *STAND* Magazine, ACLU, 125 Broad Street, 18th Floor, New York, NY 10004, or email to stand@aclu.org. This is not a subscription publication, and we do not accept unsolicited manuscripts or advertisements. ©2017 American Civil Liberties Union Foundation. All rights reserved. Contents may not be reproduced without the express written consent of ACLU. Requests for reprints should be directed to permissions@aclu.org. Published by Meredith Xcelerated Marketing (MXM), 1716 Locust Street, Des Moines, IA 50309. Printed in the USA. The ACLU comprises two separate corporate entities, the American Civil Liberties Union and the ACLU Foundation. Although both the American Civil Liberties Union and the ACLU Foundation are part of the same overall organization, it is necessary that the ACLU have two separate organizations in order to do a broad range of work in protecting civil liberties. This magazine collectively refers to the two organizations under the name "ACLU."

“ THE ACLU MUST’VE KNOWN PEOPLE WOULD TEAR THE TRUMP COVER OFF THE WINTER ISSUE OF STAND... ”
 — Molly Hodgdon

NO ORDINARY HEROES

I LOVED THE “ORDINARY HEROES” piece and wish you’d had space for Susan Watson, a nurse and mother who successfully sued the state of Florida to stop Gov. Jeb Bush’s school voucher program. She worked to start the ACLU office in Pensacola and was named director of the Northwest Florida region—an area consistently hostile to ACLU’s work. Susan later became executive director of the ACLU of Alabama, also not the easiest of locations. She died in December at 62, followed by the tears of many hundreds who loved her. Susan was no ordinary hero—nor were the others you named. In fact, a big part of ACLU’s mission is to let people know that they are not “ordinary.”

*William M. Sloan
 Pensacola, FL*



“Ordinary Hero” Martin Gill with his son.

ACLU AT THE MOVIES

YOU FORGOT *The Manchurian Candidate*. The father of Josie was a U.S. senator who had been



COVER TO COVER

THE ACLU MUST’VE KNOWN people would tear the Trump cover off the winter issue of *STAND*—there’s another cover underneath.

Molly Hodgdon, via Twitter, South Burlington, VT

Editor’s note: While we wanted to let members know up front that we’re taking on Trump, we’re glad Molly and others “uncovered” the whole story!

JUST FINISHED READING my Winter 2017 issue of *STAND*. I found the issue fact-filled, eye-catching and uplifting. Already looking forward to the next one. Bravo!

Tim Hamilton, Pittsburg, KS

falsely accused of being a Communist. He sued for defamation and won. He said he gave the money to the ACLU. It’s a great movie with a great message.

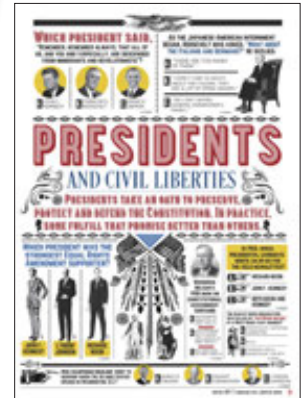
*Stanley D. Stevens
 Santa Cruz, CA*

YOU ASKED for movies with ACLU lawyers: *American Violet*, in which the ACLU has a starring role.

*Nommy Sagalyn Burack
 Amherst, MA*

Editor’s note: American Violet (2008), a dramatization of an ACLU case, stars Alfre Woodard as a single mother in Texas wrongly accused of selling drugs. Thanks to others who noted Gideon’s Trumpet, a 1980 TV movie based on a landmark ACLU case, and John Grisham’s *A Time to Kill* (1996).

HISTORY LESSON



THE INFOGRAPHIC ON PRESIDENTS and civil liberties includes an item on Japanese internment during World War II that implies that Italians and Germans were not interned. But in fact, they were, although not to the extent that Japanese-Americans were. Some 10,000 Italian-Americans and 11,000 German-Americans were interned or forcibly relocated. In addition, 600,000 Italian immigrants were compelled to register as enemy aliens, and of these, 52,000 were confined to “exclusionary zones” that included a strict curfew (among them was Joe DiMaggio’s father).

*Anita Guerrini
 Corvallis, OR*

YOUR STAND

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

In Brief

WHAT'S HAPPENING, WHAT'S NEXT



SANCTUARY CITIES FIGHT BACK

PRESIDENT TRUMP'S EXECUTIVE ORDER that threatened to defund cities and states declining to become entangled in federal immigration enforcement unleashed a wave of support for the “sanctuary cities” movement.

Since Trump's election, nearly a dozen localities declared themselves sanctuaries, and California introduced a measure to expand sanctuary policies statewide. The Immigrant Legal Resource Center says at least 633 counties have sanctuary policies.

In January, the U.S. Conference of Mayors and the Major Cities Chiefs Association jointly declared, “Immigrants residing in our cities must be able to trust the police and all of city government.”

One notable change of heart came from Maricopa County, Arizona, long known as hostile to immigrants under “America's toughest sheriff,” Joe Arpaio. There's a new sheriff in town, Paul

Penzone—Arpaio lost his re-election bid after numerous ACLU lawsuits exposed his illegal racial profiling and detention of Latinos. And Penzone has pledged to follow the Constitution and release detainees once they've posted bail or served their sentences.

On the legal front, in March, the ACLU and its California affiliates supported a challenge to Trump's order, saying it threatens public health and safety by making immigrants less likely to come forward when they are sick or in danger. In April, a federal court ruled that the order is likely “unconstitutional on its face” and blocked it nationwide.

“As this court decision underscores, cities, counties and states have the right to do what is best for their communities and refuse to become part of the deportation force,” says Omar Jadwat, director of the ACLU's Immigrants' Rights Project.

BY THE NUMBERS

REPRODUCTIVE RIGHTS

Abortion isn't under just federal attack. State politicians are pushing laws making it difficult if not impossible for a woman to access abortion care. Here's what we're fighting:

43 – States that introduced abortion restrictions this year to date.

93 – Percentage of women of reproductive age in the South who live in a state hostile or extremely hostile to abortion.

22 – States with six or more abortion restrictions, classifying them “extremely hostile” to abortion rights.

17 – States that introduced bills in 2017 to ban abortion at certain pregnancy points, including as early as six weeks.

5 – States in 2017 considering bills forcing a woman to undergo an ultrasound while a provider shows and describes the image to her even over her objection.

» KNOW YOUR RIGHTS: DEMONSTRATIONS & PROTESTS

UNDER FEDERAL LAW:

1. Generally, speech and protest are protected in public areas: streets, sidewalks and parks. However, you do not have a constitutional right to intentionally block pedestrians or traffic, or engage in civil disobedience.

2. Permits may be required for large gatherings but are not necessary for protests that erupt in response to “breaking news.” A permit denial can never be based on your identity or message.

3. Governments may impose “time, place and manner” restrictions (such as banning amplified sound or rejecting a demonstration in the wee hours) but may never target your opinions or viewpoint.

[ACLU.ORG/PROTEST](https://www.aclu.org/protest)



COURTS**ACLU'S BIG WINS****THE ACLU HAS PARTICIPATED IN MORE SUPREME COURT CASES**

than any other nongovernmental organization. Here are some of our "greatest hits" over the past 97 years:

>> 1932 POWELL v.

ALABAMA. Established the right to effective counsel on behalf of the "Scottsboro Boys," nine African-Americans wrongfully accused of raping two white women.

>> 1943 WEST VIRGINIA

v. BARNETTE. Ruled that compelling Jehovah's Witness children to salute the flag violates the First Amendment.

>> 1973 ROE v. WADE AND

DOE v. BOLTON. Established that the Constitution protects a woman's right to decide whether to terminate her pregnancy.

>> 1997 RENO v. ACLU.

Struck down the 1996 Communications Decency Act, which broadly banned "indecent" speech on the internet.

>> 2001 ATKINS v. VIRGINIA.

Ruled that execution of people with intellectual disability is cruel and unusual punishment under the Constitution's Eighth Amendment.

>> 2015 OBERGEFELL v.

HODGES. Established the constitutional right of same-sex couples to marry.



Ehlana Fry, now 13, with Wonder at the U.S. Supreme Court

A GIRL & HER DOG WIN BIG**ACLU TAKES DISABILITY RIGHTS CASE TO THE SUPREME COURT**

EIGHT YEARS AGO, residents in rural Brooklyn, Michigan, embraced Ehlana Fry, holding a community fundraiser to match the 5-year-old with cerebral palsy with Wonder, the service dog prescribed to help her become more independent at school and in life.

The town's good work was nearly undone by the local public school. According to Ehlana's mother, Stacy, not only did Ezra Eby Elementary School doubt the utility of Wonder, the school humiliated Ehlana by forcing the kindergartener to demonstrate how the goldendoodle helped her move from walker to toilet. Administrators then barred Wonder from returning to school, claiming an aide could take Wonder's place.

Ehlana's parents took action, transferring Ehlana and Wonder to a different public school, where the two were welcomed. Wonder appeared

in the class photo and received a staff ID tag.

With the help of the ACLU of Michigan, the Frys sued, charging Ehlana's old school with discrimination.

The school claimed the suit was premature, saying that under the Americans with Disabilities Act, Ehlana must first "exhaust administrative remedies."

Then, in February, following years of litigation, the Supreme Court unanimously ruled in favor of Ehlana, now 13.

"This victory will, once and for all, remove unfair legal hurdles for victims of discrimination across the country that prevent students from seeking justice guaranteed by the Americans with Disabilities Act," says ACLU of Michigan Legal Director Michael J. Steinberg, who argued the case before the court.

BY PHYLLIS ECKHAUS

STATS EXPOSE FAILED DRUG POLICY

EVERY 25 SECONDS, someone is arrested for possessing drugs for personal use. So says a recent report by the ACLU and Human Rights Watch, detailing the devastating human costs of America's failed drug policy—especially for communities of color—and calling for decriminalizing personal drug use and possession.

Here are some other startling facts and figures:

- The police make more than **1.25 MILLION** drug possession arrests every year, more than for any other crime.
- Black and white adults use drugs at similar rates, but blacks are arrested more than **2.5 TIMES** as often.

- On any day, at least **137,000 PEOPLE** are behind bars for possession.

In the time it took you to read this, at least one more person was arrested.

 **Read the report at [ACLU.ORG/EVERY25SECONDS](https://www.aclu.org/every25seconds)**

Q&A WARRIOR FOR RIGHTS

CONGRESSWOMAN ELEANOR HOLMES NORTON DISCUSSES HER 26 YEARS REPRESENTING THE DISTRICT OF COLUMBIA AND HER STINT AS AN ACLU LAWYER (1965-70). HER SUCCESSFUL SEX-DISCRIMINATION LAWSUIT ON BEHALF OF SEVERAL DOZEN FEMALE EMPLOYEES OF NEWSWEEK MAGAZINE WAS DRAMATIZED IN THE AMAZON SERIES *GOOD GIRLS REVOLT*.



Rep. Eleanor Holmes Norton speaks at a protest held by striking government contract workers.

STAND: Your very first job was assistant legal director at the ACLU. What are some highlights?

EHN: With [Legal Director] Mel Wulf, I was one of only two lawyers on staff, so I had opportunities I wouldn't have had if there were a whole slew of lawyers. Much of the ACLU's work during this volatile era had to do with people attacking the status quo. I represented people who objected to the Vietnam War and also people whose views I profoundly disagreed with. I also got to argue my first and only Supreme Court case at the age of 31. It says a great deal about the ACLU that they didn't pull rank.

STAND: How important was the First Amendment to the civil rights movement—and to movements today?

EHN: My views on free speech came in part from my work in the civil rights move-

ment and also from my own experience of segregation in public schools. Federal and state laws discriminated against black people, but freely speaking out helped bring about change. What concerns me today is that some people don't seem to understand the reciprocal nature of free speech rights. If you insist on shutting up the other side, you're shutting yourself down, and no one gets to speak.

STAND: How did you feel about representing segregationist George Wallace?

EHN: No case was more fun than defending George Wallace! [New York City] Mayor John Lindsay had denied him the right to use Shea Stadium during the 1968 presidential campaign. The New York Civil

Liberties Union [an ACLU affiliate] sent me to defend him in Queens Supreme Court. If his lawyers were surprised, they held their cool when I walked in. I argued the First Amendment segment, and we won easily. Interestingly, my next job was with Lindsay—he appointed me to be chair of the New York Commission on Human Rights in 1970. I think he was looking for someone with credibility in the African-American community who didn't mind taking on controversy. And that job in turn led to my appointment as the first woman chair of the Equal Employment Opportunity Commission. All that started with my work at the ACLU.

STAND: Why is D.C. statehood such an important issue?

Do you expect the Trump administration and the current Congress to help or hinder this goal?

EHN: It's up to the District to do what it's doing now—arouse local and national public opinion using education, advocacy and social media to get out the message. The hashtag #HandsOffDC is about American citizens who live in our nation's capital with a representative who can't vote on the House floor, even on D.C. issues. And our residents have no representation in the Senate, even though they pay the highest federal taxes per capita in the U.S.

STAND: What do you say to people who are looking for hope during a time of turbulence and threats to civil liberties?

EHN: I'm very encouraged that the hope seems to come from the people themselves. There hasn't been a weekend in D.C. without some kind of demonstration. Members of Congress didn't bring people out—in fact, they're running to keep up with their constituents! Republicans are being called to account in town hall meetings. I think there's huge hope out there, and the proof of the pudding is going to come in the 2018 midterm elections.

“ If you insist on shutting up the other side, you're shutting yourself down, and no one gets to speak. ”

POST-TRUMP SURGE

PRESIDENT TRUMP'S ELECTION UNLEASHED AN UNPRECEDENTED SURGE OF SUPPORT FOR THE ACLU:

- Membership almost quadrupled and is at an **ALL-TIME HIGH OF 1.6 MILLION** and counting.

- People Power, the ACLU's new grassroots mobilization program, is taking the fight to the streets. The first Resistance Training, March 11 in Miami, drew **2,500 PARTICIPANTS IN PERSON AND OVER 200,000 AT "HOUSE PARTIES;"** 1 million watched via livestream.

- Hollywood A-listers, such as Lin-Manuel Miranda and Ruth Negga, wore blue **ACLU LAPEL RIBBONS AT THE ACADEMY AWARDS** in

February, while political powerhouses, including Sen. Elizabeth Warren, sported them in Congress.

- A Facebook video of Executive Director Anthony Romero announcing the ACLU's successful challenge to Trump's Muslim ban went viral, with **19 MILLION VIEWS.**

- Lawmakers are hearing ACLU members loud and clear via an Action Alert email subscriber **LIST THAT'S DOUBLED TO 2.6 MILLION** since the election.

Join the resistance at PEOPLEPOWER.ORG



Lin-Manuel Miranda



Niya Kenny was arrested for objecting to a school cop's aggressive behavior against a fellow student.

DISTURBING SCHOOLS

POLICING LABELS KIDS AS CRIMINALS

IN 2015, AFTER OBJECTING TO THE BEHAVIOR OF an overaggressive school cop known as “Officer Slam,” South Carolina high schooler Niya Kenny was arrested, jailed and charged in adult court with “disturbing a school.” Kenny is black, as are a staggering 7 out of 10 South Carolina students charged under the state’s “disturbing schools” law—a vague and pernicious statute that willfully conflates disruption with delinquency. Far from making schools safer, the law and others like it simply serve to funnel minority students into the school-to-prison pipeline.

A new ACLU white paper, “Bullies in Blue: Origins and Consequences of School Policing,” takes a hard look at the origins and outcomes of state and federal policies that have encouraged many schools to exchange detention slips for handcuffs, and suspensions for court dates. These policies generally proceed from false pretenses—exaggerated tales of

“super-predator” children, erroneous reports of juvenile crime waves—and racial phobias.

“School policing really is birthed out of the same racial injustices that have driven the rise in mass incarceration,” says “Bullies in Blue” coauthor Megan French-Marcelin of the ACLU. “The same criminal-justice policies that we see operating in low-income black and brown neighborhoods are really operating the same way in schools.”

The report offers nine policy recommendations that communities can adopt to reverse this trend. Among them: Keep cops out of schools except in case of emergency; prohibit in-school arrest of students for behavioral transgressions such as swearing or burping excessively; and most important, commit to making school a positive and supportive environment for all students. **BY JUSTIN PETERS**

Read the report at ACLU.ORG/BULLIES-BLUE

VOTING RIGHTS: Jeff Sessions No Hero

WITH PRESIDENT TRUMP'S appointment of Attorney General Jeff Sessions, the Justice Department (DOJ) “went from being a staunch ally on voting rights to one that we expect will be our adversary in the courtroom,” says Dale Ho,

director of the ACLU's Voting Rights Project. Within weeks, Sessions withdrew DOJ support for a lawsuit challenging Texas' racially discriminatory voter ID law.

The ACLU filed a supporting brief in the Texas

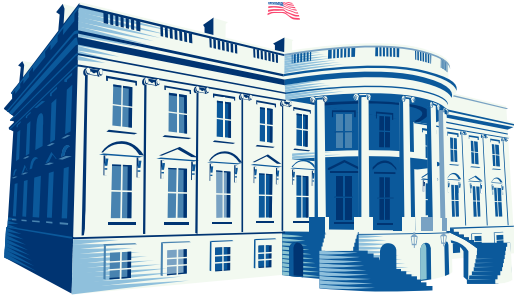
challenge. Here are three more of the dozens of cases the ACLU is litigating—with or without administration support:

- **Wisconsin:** *Frank v. Walker*, challenging a restrictive voter ID law;
- **Kansas:** *Fish v. Kobach*,

fighting unlawful additional requirements to register;

- **North Carolina:** *League of Women Voters v. North Carolina*, targeting rollbacks of early voting and same-day registration.

FAIL TO THE CHIEF



THE ACLU'S FIRST OFFICIAL WORDS TO PRESIDENT TRUMP WERE "WE'LL SEE YOU IN COURT." SINCE ITS FOUNDING IN 1920, THE ACLU HAS SPOKEN TRUTH TO PRESIDENTIAL POWER. HERE ARE JUST A FEW EXAMPLES:



Franklin Roosevelt (1942)

THE ACLU STOOD ALMOST ALONE IN DENOUNCING THE FEDERAL GOVERNMENT'S INTERNMENT OF MORE THAN **110,000** JAPANESE-AMERICANS.

Harry Truman (1947)



The ACLU challenged the president's **FEDERAL EMPLOYEE LOYALTY PROGRAM—REQUIRING AN ANTI-COMMUNIST PLEDGE**—as "antithetical to fundamental principles of American justice."



Dwight Eisenhower (1958)

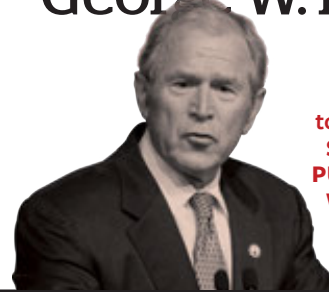
THE ACLU DEFEATED THE GOVERNMENT'S ATTEMPT TO REVOKE AMERICAN-BORN ALBERT TROP'S CITIZENSHIP AS PUNISHMENT FOR BRIEFLY DESERTING THE ARMY.

Ronald Reagan (1983)

WHEN THE ACLU CRITICIZED REAGAN FOR DECLARING "THE YEAR OF THE BIBLE," HE DECLARED THE INDICTMENT "A BADGE OF HONOR."



George W. Bush (2009)



The ACLU secured the release of documents detailing the post-9/11 torture program, including **SECRET LEGAL MEMOS PURPORTING TO JUSTIFY WATERBOARDING AND OTHER ABUSES.**

Barack Obama (2014)

The ACLU sued over the administration's **DETENTION WITHOUT CHARGE** of immigrant women and children fleeing violence in Central America.



Richard Nixon (1973)

The ACLU was the first national organization to call for impeachment over **Watergate**, declaring in *The New York Times*: "Richard Nixon has not left us in doubt. He means to function above the law."



SEEK PROTECTION, RISK EVICTION

DOMESTIC VIOLENCE SURVIVORS GET PENALIZED
—AND TRAUMATIZED—FOR REPORTING ABUSE.

IN 2012, THE CITY OF Maplewood, Missouri, a western suburb of St. Louis, ordered Rosetta Watson to vacate her home—and barred her from living anywhere in the city for six months. Her offense? She called police four times to ask to be protected from her abusive ex-boyfriend.

Under a local ordinance, more than two calls to police regarding domestic violence within 180 days qualifies as a “nuisance.” The ordinance does not exempt situations where residents need to call police for help or whether they are crime victims.

Watson, who was forced to leave and moved to St. Louis, did not escape her abuser: He found her, broke into her home and stabbed her in the legs.

That may sound unfathomable. But because of laws and policies punishing people who report abuse, survivors of domestic violence are being evicted—and if they are undocumented immigrants, deported—with alarming frequency. Across the country, thousands of nuisance and crime-free ordinances penalize calls for police service or criminal activity at a property. Rather than responding effectively to crime, these shortsighted policies generally are aimed at stopping 911 calls and, thereby, reducing city budgets. And they especially

harm domestic violence survivors who turn to the police for help. In some cities, such calls are specifically targeted as “nuisances.”

A recent ACLU and Social Science Research Council study of two New York cities, Binghamton and Fulton, determined that domestic violence was the single largest category of criminal activity triggering enforcement of the cities’ nuisance laws. Harvard sociologist Matthew Desmond, author of the book *Evicted*, found that a Milwaukee nuisance ordinance disproportionately targeted domestic violence survivors who are African-American.

Similarly, survivors of domestic violence who are immigrants face dire consequences for contacting law enforcement. Federal law has long recognized that our communities are more secure if crime victims can come forward, including granting special visas to immigrants who are helpful in investigating or prosecuting a crime.

But under the Trump administration, the Department of Homeland Security no longer assures such witnesses they will not be arrested at courthouses or other places where they may go for legal protection or to report a crime. Immigration officials’ aggressive deportation practices have led to the detention of crime victims seeking restraining orders and other court relief.

When I first began working with domestic violence survivors 20 years ago, many hotlines and shelters gave this standard advice: Call 911. Go

to court and obtain a protective order. Today, this guidance is clearly dangerous for far too many survivors, in far too many communities.

Confronted with possible eviction or deportation, many survivors simply live with the violence. Perpetrators wield these punitive laws and policies as weapons, threatening survivors with homelessness or exile if they disclose the violence. Ultimately, the safety of families and communities is at risk; often, unchecked violence can escalate.

The ACLU is determined not to let crime victims be coerced into silence. The First Amendment guarantees the freedom of speech and the right to petition the government for redress of grievances. While we usually associate the First Amendment with protests, these constitutional rights extend to domestic violence survivors who need to contact the police or the courts for assistance. We raised successful First Amendment claims when challenging nuisance ordinances in Norristown, Pennsylvania, and Surprise, Arizona; the cities repealed their ordinances and compensated the women we represented.

As the federal and local governments double down on policies that punish survivors of domestic violence for speaking out, we will continue to fight to ensure that their fundamental rights and humanity are respected.

SANDRA S. PARK is a staff attorney with the ACLU Women’s Rights Project.

“As federal and local governments **double down** on policies that **punish survivors** of domestic violence for **speaking out**, we will **continue to fight**.”

JUSTICE FROM THE INSIDE OUT

STORY BY
MEGAN FRENCH-MARCELIN

PHOTOGRAPHY BY
DENNIS WELSH

THEY ALL **SERVED TIME...AND SAW INJUSTICE FIRSTHAND.** NOW THEY SERVE THOSE STILL BEHIND BARS—AND THOSE TRYING TO MAKE IT ON THE OUTSIDE—BY **FIGHTING FOR THEIR RIGHTS WITH ONE VOICE.**

WHILE HE WAS SERVING A LIFE sentence without parole on a wrongful conviction inside Louisiana's notorious maximum security Angola prison, Norris Henderson watched as prisons across the country erupted in violence due to inhumane conditions. So in 1987, he cofounded the Angola Special Civics Project, a group of Angola prisoners dedicated to challenging mass incarceration from the inside.

The group spent countless hours in the law library, drafting legislation, working on appeals and meeting with politicians and advocates to discuss prison conditions. By 1990, the Civics Project, alongside legislators, had helped draft and pass the "20/45 law"—releasing anyone (excluding those serving life without parole) who had served 20 years or had reached the age of 45.

Upon his release, Henderson continued the work as founding executive director of Voice of the Experienced, which has become a leading force in Louisiana justice reform.

It may seem a no-brainer that people who have experienced

prison and its frequently turbulent aftermath are among those best suited to produce meaningful incarceration reform. Yet for many years, those fighting for criminal justice reform failed to place formerly incarcerated activists at the table. So in 2011, Henderson and other formerly incarcerated leaders nationwide created the Formerly Incarcerated People's Movement, now the Formerly Incarcerated and Convicted People and Families Movement (FICPFM). The current advisory council—Henderson, Daryl Atkinson, Susan Burton, Pastor Kenneth Glasgow, Manuel La Fontaine, the Rev. Vivian Nixon, Glenn E. Martin and Dorsey Nunn—is now spearheading some of the most effective efforts in the United States to address mass incarceration and its many devastating collateral consequences.

Powerful entities are listening—including the ACLU, whose criminal justice reform efforts are now significantly influenced by FICPFM. The coalition has held regional gatherings, met with corporate and philanthropic executives and lobbied local legislators around the country. They also met with officials in the Obama administration and Justice Department to register



SUSAN BURTON

The founder of the group A New Way of Life, which assists women who are released from prison, embraces a staff member who utilized Burton's program after leaving prison.

key demands that included easing access to college education in prison; changing public housing guidelines; protecting the right to vote; and “banning the box” on federal employment applications that asks about convictions, a movement that has been championed by Nunn.

Their efforts have helped spur a range of significant victories. FICPFM members were instrumental in getting the Obama administration to reintroduce Pell grants, usually awarded to students who cannot pay for college, for those in prison; a pilot program started in 2016 will allow 12,000 incarcerated people to participate in college-level education.

In late 2015, FICPFM delivered more than 100,000 signatures to the White House to raise awareness of employment discrimination and the need to “ban the box.” In November 2015, President Obama signed an executive order eliminating that question.

At their first national conference in September 2016, the leaders brought together some 500 former self-identified political prisoners, activists and philanthropy groups, the largest gathering of formerly incarcerated people and their families. They persuaded the Justice Department’s Office of Justice Programs to adjust its language in discussing the formerly incarcerated, replacing “ex-con” with “formerly incarcerated,” so the experience did not define them as people.

The need for substantive, deeply insightful, multifaceted reform is especially pressing in light of the current administration’s plan to double down on draconian and racist criminal justice policies—such as mandatory minimums and harsh sentences for nonviolent drug offenses—that have left an estimated 100 million people with criminal records, a disproportionate number of them black and Latino. And their problems do not end upon release from prison: A conviction can impose a lifetime of discrimination that negatively impacts people’s access to housing, jobs, education and voting, that only intensifies for those returning to underresourced communities.

To help fight those battles, the ACLU has come to understand that it must take its cues from the formerly incarcerated if criminal justice reform is to be successful and, more important, sustainable. “We have too often wasted the incredible talent that exists in people who have gone to prison by not having their voices out front,” says Jeffery Robinson, director of the ACLU’s Trone Center for Justice and Equality. “Who is going to know better than a person walking out of a prison door what she needs in order to be successful?”

This philosophy is also at the center of the ACLU’s ambitious, bipartisan Campaign for Smart Justice. A major campaign initiative launching this fall aims to build a nationwide movement, working with grassroots alliances, to halve jail and prison populations, and reduce racial disparities in the criminal justice system.

Grassroots alliances are at the heart of FICPFM. The planning for the coalition started in 2007, when Nunn and Glasgow began a discussion with other activists. Nunn, a native Californian and the executive director of the Bay Area nonprofit Legal Services for Prisoners with Children, had spent over 20 years advocating for restoration of formerly incarcerated individuals’ civil rights. Glasgow, an Alabamian, had been organizing around human rights as an inmate at Polk Correctional Institution in Florida and returned home in 2001 to become executive director of the advocacy organization The Ordinary People Society (TOPS). Other leaders who took part in the 2007 conversation were spread all over the country—Henderson was in New Orleans; Susan Burton was in Los Angeles.

Their idea was simple. Here were several organizations, all led by formerly incarcerated advocates and all working to dismantle systems of mass incarceration and its collateral consequences, particularly in communities of color. But the work was being done in silos. The challenge was to unite all of them under one banner to address the issue nationwide.

Burton, who founded the organization A New Way of Life to offer a wide range of critical support for women returning from prison, says becoming a larger entity was essential. “We saw our communities being decimated by bad public policy,” she says. “There were people [within criminal justice reform circles] that were willing to make compromises that, as impacted people, we would never make.”

Understanding firsthand what it meant to be directly impacted by an unjust criminal justice system was a powerful common thread. It allowed the eight activist leaders, who had accomplished much in their own communities, to defy the predictions

of many well-funded nonprofits and other established justice reform players. Glasgow recalls hearing that a coalition of such magnitude, having such diverse political strategies, would fail to find a unifying voice. Some dismissed them out of hand. Yet the leaders persisted. The persistence required to create such a diverse group says a lot about the tenacity and grit of those at the helm.

With funding from the Drug Policy Alliance, the organizers decided to convene in Selma, Alabama, in 2011 for the anniversary of “Bloody Sunday,” the police attack on marchers over the Edmund Pettus Bridge that marked a turning point in the civil rights era. What followed was a 14-point platform that unified their policy positions. Among other planks, the platform calls for the end of mass incarceration, humane prison conditions and investment in communities ravaged by overcriminalization.

“There had been a series of twice-a-month phone calls that had been going on to hammer out language; using a working document, we sketched out what the planks could potentially be,” Atkinson recalls.

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In the months and meetings that followed, the movement was born. While individuals moved in and out of the leadership council, currently comprising eight members representing six organizations, the advisory members remain steadfast in their commitment to a broader vision of organizing.

One thing helping create common ground was that many learned about these priorities, and techniques to address them, through their experiences in prison. Prison, Atkinson says, was seen by many as the “way to control, if not eliminate, dissident voices.” Instead, it unified them. Henderson says, “I remember talking to someone about fighting felony disenfranchisement, and they said, ‘That ain’t gonna happen unless you get out.’”

Similarly, through political education inside prison, Manuel La Fontaine, now the project manager at Legal Services for Prisoners with Children, encountered a history of organizing in reading the works of George Jackson, Fred Hampton and others, which informed the work he would eventually do in the community when he was released.

Glasgow’s education in prison is at the center of his organizational philosophy. “Everyone has heard of the jailhouse lawyer,” he says. “Well, I was the jailhouse preacher.” Reading everything from the Bible to the Koran to the Bhagavad Gita, Glasgow sought to inject the movement with a sense of unification and healing, which remains a critical part of TOPS’ work. In 2008, Glasgow won voting rights for a portion of individuals incarcerated in Alabama correctional facilities after finding that the Alabama constitution only revoked voting rights for crimes of “moral turpitude” but not *all* felonies, as the law had been applied.

Atkinson, now an attorney whose work focuses on the collateral consequences of incarceration, graduated in the top third of his law class after being incarcerated. He is nearing the end of a two-year “Second Chance” Department of Justice fellowship.

Martin is now president and founder of JustLeadershipUSA, a highly respected advocacy group long committed to cutting the prison population in half by 2030. Martin’s #CLOSErikers Campaign, along with his participation in a commission to study that troubled jail, headed by former New York state Chief Judge Jonathan Lippman, led New York Mayor Bill de Blasio to announce in March that he would close the facility. Martin’s oft-repeated statement, “Those closest to the problem are closest to the solution,” has become the mantra for the movement.

FICPFM does not have a single ideology, strategy, leadership model or organizing tactic. Rather the coalition’s aim is to provide a unified corrective to policy decisions made without input from impacted communities. As Atkinson puts it: What became clear over time was that their leadership was “stronger together.”

Stronger together, and stronger in increasing numbers, especially with a new generation of potential activists, Susan Burton is convinced there is a wealth of untapped talent. “We are not a special crew; we just got a few breaks that have allowed us to develop,” she says. “But there are so many others with a deep desire

to repair the damages of mass incarceration in their community. An investment in them would reap such great rewards for this country, for those communities.”

And they have learned from social movements past. Dorsey Nunn and other FICPFM activists have often pointed to the gay rights movement as a model for national organizing efforts. Says Nunn: “I was too young for the civil rights movement, but I watched the gay rights movement come of age. And while it was not my movement, I knew enough to learn from watching that struggle. I knew enough to recognize I needed to learn everything I could, in order to one day secure the full restoration of my rights.” Thus, lessons

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GOOD JOBS ARE GOOD BUSINESS

IT’S NO ACCIDENT that some of the country’s most successful corporations—including Starbucks, Home Depot and Koch Industries—are dedicated to hiring formerly incarcerated people. Many did so at the urging of David Trone, a businessman whose personal battle against unjust accusations turned him into a crusader for criminal justice reform and a supporter of the ACLU’s efforts to reduce the prison population.

Trone’s company, Total Wine, was one of the first to “ban the box”—eliminating the question about a

job applicant’s criminal record. A forthcoming report and toolkit from the ACLU’s Trone Private Sector and Education Advisory Council makes the case that doing so is good business. The U.S. annual gross domestic product reduces by up to \$87 billion when it excludes those with records from the workforce. When they are hired, however, retention rates are higher, turnover is lower and employees are significantly more loyal. Also, recidivism is dramatically reduced.

Felipe Wright knows this firsthand. The founder and CEO of the elec-

tronic recycling company eWaste Tech Systems in Richmond, Virginia (whose business partner is a member of the Trone advisory council), prioritizes hiring motivated formerly incarcerated individuals. He’s attended court dates, spoken to landlords and testified to his employees’ good character.

Through a government workforce training program that partly subsidized his efforts, Wright met Dennis Smith, a skilled worker who served four years in prison and couldn’t find a job. Less than three years after being hired, Smith is Wright’s second-in-

command, managing the warehouse, operating the forklift and attending outside meetings with the CEO. “He’s one of the best employees I have,” Wright says.

Smith, who had been living hand-to-mouth on short-term, low-paying gigs, now maintains an apartment, where he lives with his girlfriend and two children. And he makes clear he has no plans to leave eWaste. “I’ve had offers for other jobs already from the people I’ve met through this one,” Smith says. “I would never do that to Felipe.”



Mama Tina's Mission House

Join What You Are Already A Part

THE ORDINARY PEOPLE
SOCIETY
T.O.P.S.

PASTOR KENNETH GLASGOW

The executive director of the advocacy group The Ordinary People Society (TOPS) answers a call outside a soup kitchen in Dothan, Alabama, before lunch.



VIVIAN NIXON

The executive director of College and Community Fellowship speaks with Selina Fulford, left, of the organization's Theater for Social Change, whose performances show mass incarceration's impact on women.

about developing sustainable leadership that can organize on particular objectives at a national–local nexus provide a model for FICPFM: Grow leadership, maintain unified objectives, build supporting institutions.

One way to help achieve this goal, says Vivian Nixon, is education. “All those gains won through litigation and other constitutional practices are subject to reversal unless we do the real, on-the-ground work of helping people understand the structural damage that has been done,” Nixon says. “Until we do that, things will get done ... and then they will get undone.” Nixon is executive director of College and Community Fellowship. The New York-based organization empowers formerly incarcerated women to pursue higher education not only to reduce recidivism but also to enrich their lives and develop their own places in the movement.

All too aware of the work that remains to be done in criminal justice reform, FICPFM's mission nevertheless extends far beyond the end of mass incarceration. The criminal justice reform issue, or as Atkinson puts it, “the injustices issue,” provides the wedge leading to a discussion about the disproportionate harms the lifelong consequences of mass incarceration perpetuate in black and Latino communities. Those communities will

continue to be stripped of access to education, housing, public benefits and other support services.

Says Martin, “This is not just a conversation about criminal justice reform—this is a conversation about systematic

oppression.” Atkinson agrees: “This is where we have to be truth tellers,” he stresses. La Fontaine adds: “This is a struggle for the full restoration of our civil and human rights. We want to feed, clothe, house and nurture our families, not continue to be punished for years, and in some cases, decades after our sentences end.”

The ACLU's Jeffery Robinson is betting that the FICPFM coalition will continue to rankle, disturb, raise uncomfortable questions and generate change. He knows personally the power of its firsthand experience—and determination—to shape the dialogue. As a member of the Lippman Commission calling for the closure of Rikers Island,

Robinson says, Glenn E. Martin of JustLeadershipUSA brings “a credible and powerful voice” to the table, one that has been missing in many such efforts. Multiply that power by eight, then by their prospective current and future co-leaders and supporters, and one can see that the FICPFM reformers are only getting started. ■

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THE REVOLUTION WILL BE TELEVISED, ARCHIVED & ANALYZED

STORY BY DAVID W. BROWN ILLUSTRATIONS BY ZOHAR LAZAR

**CITIES WIELD HIGH-TECH
SURVEILLANCE TOOLS
THAT RECORD WHAT YOU
DO, WHAT YOU SAY AND
WHERE YOU ARE.**

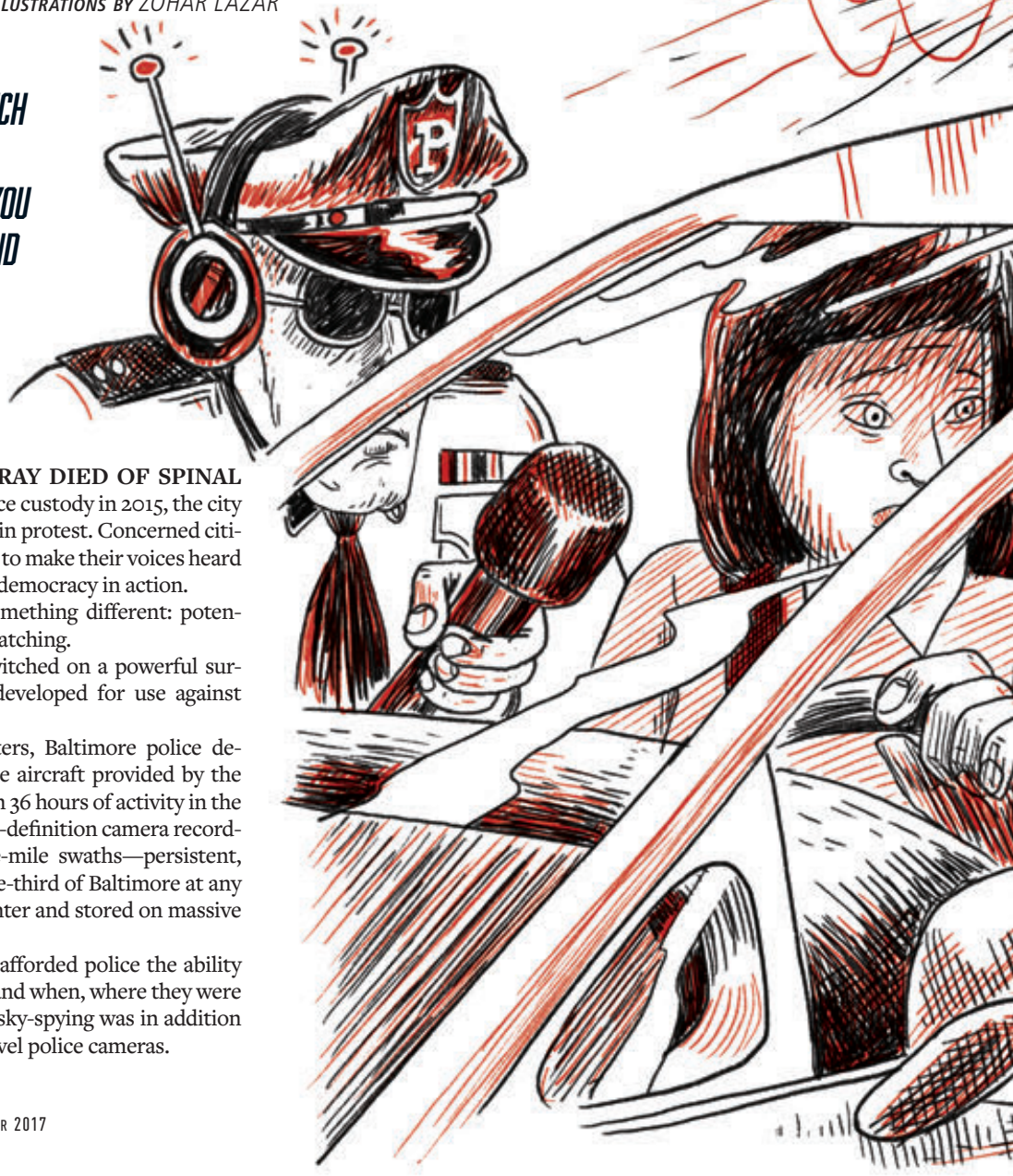
WHEN FREDDIE GRAY DIED OF SPINAL injuries while in police custody in 2015, the city of Baltimore rose up in protest. Concerned citizens poured into the streets to make their voices heard and demand change. It was democracy in action.

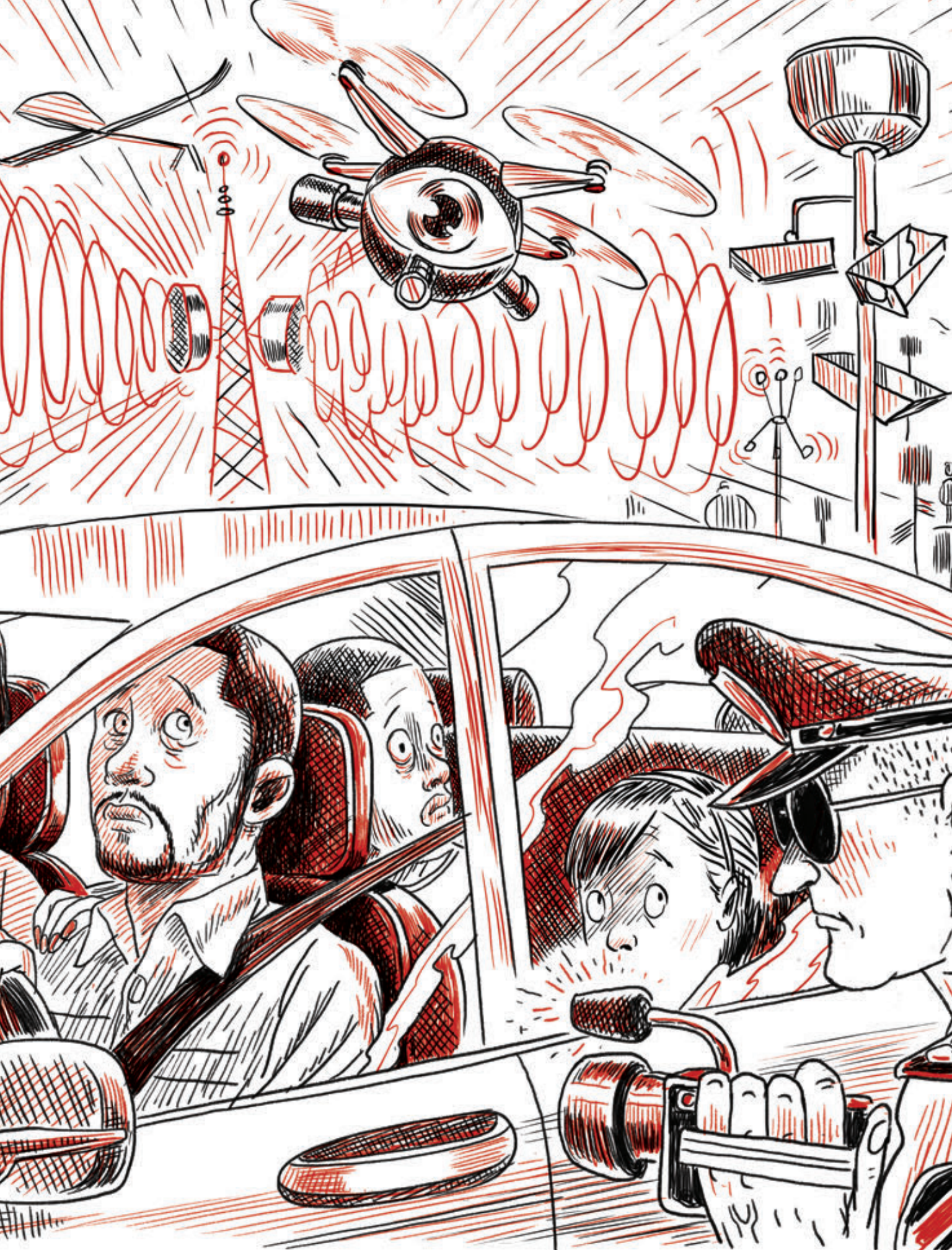
Law enforcement saw something different: potential criminals that needed watching.

So police and the FBI switched on a powerful surveillance technology first developed for use against insurgents in Iraq.

Unbeknownst to protesters, Baltimore police deployed an aerial surveillance aircraft provided by the FBI that recorded more than 36 hours of activity in the city below. An attached high-definition camera recorded everything in 30-square-mile swaths—persistent, real-time surveillance of one-third of Baltimore at any time, streamed to a data center and stored on massive hard drives for later review.

The unblinking air force afforded police the ability to see who was doing what and when, where they were going and with whom. The sky-spying was in addition to the existing 700 street-level police cameras.





“Technology has transformed surveillance from something expensive and labor-intensive to something that is cheap and pervasive,” says Ben Wizner, director of the ACLU’s Speech, Privacy and Technology Project. “It’s now possible for law enforcement to use technology to find out the identity of everyone at a particular protest. I think that people might be less willing to join a protest, knowing that electronic records of their participation in that event can be collected and stored.”

The very people, in other words, who would be most motivated to protest law enforcement abuses are the ones with the most to fear—and lose—from government surveillance.

State legislators, police departments and prosecutors involved in shaping state and local surveillance law and policy determine not only what the law looks like but also how those laws will be used. In practice, this almost always means the use of surveillance authority not to find terrorists—as is usually claimed when such technology is acquired—but for the war on drugs.

“Sneak and peek” warrants, for example, were intended to allow officers to secretly enter the home of a terror suspect, search computers, install surveillance equipment and then leave undetected. Only months later are the targets of such a warrant informed.

In 2014, it was finally revealed how these sweeping new powers actually were being used. Of the 11,000 such warrants issued, only 51 had anything to do with terrorism. The overwhelming majority—9,401—were used for drug cases.

The so-called drug wars have spawned numerous powers such as aerial surveillance. At least one telephone metadata collection program, which spied on billions of calls a decade before 9/11, was run not by the National Security Agency but by the Drug Enforcement Agency.

The same goes for “stingray” devices that trick your phone into surrendering data.

“Stingrays were justified on the basis of terrorism in places like Tacoma, Washington,” says Kade Crockford, director of the Technology for Liberty Program at the ACLU of

Massachusetts. “We later got actual statistics about how Stingrays were used by the Tacoma police almost exclusively to go after suspected drug dealers.”

Expanding surveillance authority always means intensifying the war on drugs. And because this strategy disproportionately focuses on black and brown people, it is in practice an assault on communities of color.

A report issued last year by the ACLU and Human Rights Watch noted that though black and white adults use drugs at similar rates, black men and women are arrested two-and-a-half times more frequently. In 2014, black adults accounted for 14 percent of the drug-using population but nearly a third of arrests for possession. The disproportionate arrest rates hold true for each of the 39 states for which data is available.

According to Crockford, it was nothing new that black and brown people predominated on the receiving end of Baltimore’s surveillance machine. “The conversation about surveillance is not distinct from the conversation about mass incarceration or racism and white supremacy in the United States,” she says.

“You have to be concerned about the very physical repression that is on the other side of surveillance,” Crockford says. “We should think about surveillance not simply as a tool to monitor dissidents but as a tool that is used to put black and brown people in cages, often for crimes of poverty.”

In the best of times, intrusive surveillance authority is a serious problem. With President Donald Trump—who refused to denounce the white nationalists and anti-Semitic organizations backing his campaign, and whose record of public, openly racist remarks goes back to at least 1993—such surveillance threatens every dissident, activist, religious minority and black and brown person in America.

“I want surveillance of these people,” Trump declared of Muslims while speaking at a campaign rally in 2015. “I want surveillance of certain mosques, OK? ... I want surveillance. And you know what? We’ve had it before, and we’ll have it again.”

IN THE BEST OF TIMES, INTRUSIVE SURVEILLANCE AUTHORITY IS A SERIOUS PROBLEM.

WE SHOULD THINK ABOUT SURVEILLANCE NOT SIMPLY AS A TOOL TO MONITOR DISSIDENTS BUT AS A TOOL THAT IS USED TO PUT BLACK AND BROWN PEOPLE IN CAGES, OFTEN FOR CRIMES OF POVERTY.



THE STREETS HAVE EYES

Today, it's difficult to name a major metropolitan area without a spying network.

Last year, the New Orleans police department raised private funds to install nearly 200 new high-definition surveillance cameras throughout the city to bring the total to around 3,900. The cameras are installed on streets, in schools, even in churches, each registered diligently with the department's database. New York City has more than 4,500 cameras in subway stations alone. Chicago has a total of about 24,000.

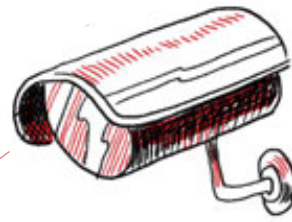
Combine those cameras with today's sophisticated facial recognition technology, and you get what researchers have described as a "virtual perpetual lineup." It is estimated that half of adults in the United States have had their faces analyzed for nose length, jawline and eye position, and that data are stored in law-enforcement-run databases.

In Chicago, Los Angeles and elsewhere, law enforcement agencies are researching software capable of identifying faces in real time—the "nameless face in the crowd" will soon be nothing more than a quaint aphorism. In many other cities, automatic license plate readers on stop signs, streetlights and police cars scan up to 1,800 license plates per minute, creating a history of drivers' movements that can reveal private and intimate details of their lives. Many agencies retain the information for years; the technology can even be used to anticipate a driver's next move.

Smart cameras fixed to police cars amount to a no-escape dragnet in which software spots the license plate of someone with an outstanding court fine or warrant, and police officers move in to "enforce the law." We saw how this played out in Ferguson, Missouri, where the police used those techniques to fill city coffers on the backs of its most vulnerable (read: black and brown) citizens.

But while these thousands of automated eyes have a grave impact on privacy and free speech, research from around the world has shown that their effect on reducing crime has been vastly overstated. What technology did government researchers in England find actually had great success in reducing crime? The lightbulb. Improved lighting was found to reduce all crime, including violent crime, an average 20 percent.

IN CHICAGO, LOS ANGELES AND ELSEWHERE, LAW ENFORCEMENT AGENCIES ARE RESEARCHING SOFTWARE CAPABLE OF IDENTIFYING FACES IN REAL TIME—THE "NAMELESS FACE IN THE CROWD."



How One Community Group Fought Surveillance & Won

TAYMAH JAHSI IS A COMMUNITY ORGANIZER with Faith in the Valley, a movement comprising 120 congregations in California's Central Valley. When she learned that the city of Fresno, where she's lived her whole life, was using social media surveillance technology to spy on her community, she helped launch a resistance that's a model for communities everywhere.

The surveillance software used by Fresno police involved automated, persistent monitoring of posts to Facebook, Twitter and other services.

"It took me back to first learning about the surveillance of Martin Luther King and Malcolm X and the Black Panther Party, and how the FBI was looking for things to counter peaceful protest," Jahsi says. "It was very discouraging—it felt like we're going in circles here. And it made us think of how we could take bold steps

to make sure that our children aren't going through the same thing we're going through now."

Jahsi helped lead the fight against the spy tool, arguing it had been implemented without community consultation. "We're trying to change the culture in Fresno so that it's the community who decides what's best for the community—not the police chief," she says. Twice her group has been successful in defunding the program.

Today, Jahsi and Faith in the Valley are working with the ACLU on a privacy ordinance to prevent not only social media surveillance but also technologies such as license plate readers and spy drones. "Sometimes you work on passion," she says. "Then you develop a strategy."





across the country. Fused together are footage from cameras on the street, license plates captured by readers, and information about who we are, where we go and what we do recorded by facial recognition or drones.

SOCIAL MEDIA SPYING #EXPOSED

The ACLU's work in Fresno, California, is a case study in how these secret surveillance technologies operate, and how they are discovered.

"We got a tip from a community member that the city of Fresno was using a surveillance system to spy on what people were saying and doing on social networks," such as Twitter and Facebook, says Nicole Ozer, the technology and civil liberties policy director for the ACLU of California. The ACLU submitted a public records request to the city to learn more.

What it found out was alarming. The city actively surveilled social networks, with a system that boasted of its capacity to identify so-called "threats to public safety" by monitoring hashtags such as #BlackLivesMatter, #PoliceBrutality and #ItsTimeforChange. "There had never been public debate about it, and there were no safeguards in place for how it was going

to be used," Ozer says.

The ACLU exposed what was happening in Fresno, and community pressure led to the dismantling of the system. But the discovery raised the question: Where else was this happening?

Upon submitting similar public records requests to 63 other police agencies in California, the ACLU learned that 40 percent also monitored social media. None had first submitted the technology for public scrutiny. None had procedures for system use, and none had policies for safeguarding community members. Ozer's office also learned that the company behind much of this social media surveillance marketed its product to target "overt threats" such as "unions, activist groups, etc."

"So much surveillance technology is being purchased and used secretly, and with little to no safeguards in place to protect community members," Ozer says. "Our work here in California has really been to push that secret surveillance into the light, and to empower communities to be in a position to make sure the right questions are asked and answered about current systems that are in place, and any systems that are being considered in the future."

To that end, many community members not only have fought to rid their towns and cities of intrusive surveillance technology but also have taken the initiative to stop intrusive surveillance before it is implemented.

Last year the ACLU, in partnership with a dozen other leading civil rights groups, started helping community members organize and push for privacy reform. The Community Control Over Police Surveillance campaign (CCOPS) works in a dozen states to enact local surveillance transparency, accountability and oversight laws.

In California, the ACLU has been especially successful at the state and local levels. Santa Clara County enacted the nation's strongest surveillance ordinance in June 2016. And in January of that year, the landmark California Electronic Communications Privacy Act (CalECPA), spearheaded by the ACLU of California, went into effect. Hailed as the nation's most comprehensive digital privacy law, CalECPA protects all digital devices and electronic information—emails, text messages, location information, metadata and more—from warrantless search by the California government. Edward Snowden's revelations of government surveillance and

THE GREEN-TO-BLUE PIPELINE

Surveillance is a public-private partnership, and it's big business. Technology designed by defense contractors to help soldiers target enemy combatants almost always finds its way to municipalities back home to help law enforcement officers target Americans. Thus the tools of war for soldiers become the tools of coercion for law enforcement. There's even a name for it: the green-to-blue pipeline.

Defense contractors aren't the only private companies cashing in on surveillance. Twitter provided access to its "firehose" of tweets to a company called Dataminr. Twitter holds a financial stake in Dataminr, which had lucrative contracts with Homeland Security and intelligence agencies.

But the biggest recipients of surveillance largesse are cities, large and small.

The process is especially insidious because law enforcement doesn't always have to go through traditional accountability channels. In the name of fighting terror at home, the Department of Homeland Security and other federal agencies provide money and hardware to state and local law enforcement. Police departments in cash-strapped towns are happy to get new surveillance tools. Because the money comes from federal grants, law enforcement agencies often can skip consultations with city councils, bypassing budgetary oversight, skeptical inquiries about usefulness, cost-benefit analyses and privacy hearings.

Poor privacy controls mean the data collected from surveillance is not always deleted. Because data is shared, it can proliferate in regional databases, where it is correlated and categorized. So as the grant money flows down, the data collected by this new surveillance gear flows up—to corporate databases and Homeland Security "fusion centers."

These federal intelligence clearinghouses collect massive amounts of raw data from scores of national, state and local sources and attempt to coordinate, analyze and disseminate it

THE CITY ACTIVELY SURVEILLED SOCIAL NETWORKS, WITH A SYSTEM THAT BOASTED OF ITS CAPACITY TO IDENTIFY SO-CALLED "THREATS TO PUBLIC SAFETY" BY MONITORING HASHTAGS SUCH AS #BLACKLIVESMATTER

work by the ACLU, among others, made the importance of the law undeniable and helped sustain public pressure for its signing.

A WIN FOR PRIVACY

Long before police recorded and rewound Baltimore residents' comings and goings in one-third of the city, Persistent Surveillance Systems, the contractor responsible for the sky spying, had approached the city of Dayton, Ohio, about implementing the same technology. The city government and law enforcement were on board, but community members were not.

Because the city held open hearings on the proposal, the public could weigh in, and their resistance helped scuttle the deal. One community member present at the city council meeting said, according to a news report. "At the hearings, nobody spoke in favor of it except for the people working for the city. The black community, in particular, said: 'We've seen this type of thing before. This will target us, and you didn't even come to us beforehand to see how we'd feel about it.'"

After the ACLU of California publicly exposed that Facebook, Twitter and Instagram had data deals with social media surveillance companies, the public pushed for change. Major platforms were forced to act swiftly and shut those surveillance side doors. More than 500 law enforcement agencies and up to 1,000 police departments across the country, as well as the federal fusion centers, were cut off from using secret social media surveillance.

Responding to continued pressure from a coalition, including the ACLU of California, Twitter also reinforced its policies against surveillance, and Facebook and Instagram updated their platform policies to clearly prohibit use of data for surveillance tools. "In the fight against secret and discriminatory surveillance," the ACLU's Ozer says, "combining strategic local, state and corporate approaches is essential."

Intrusive surveillance is fundamentally incompatible with human nature, asserts Jay Stanley, senior policy analyst for the ACLU's Speech, Privacy and Technology Project. "There is a firm level at which privacy is nonnegotiable for people," he says. "People need to be able to have intimacy, to have conversations that others can't hear; they need to be able to escape the eye of the community, of authorities. They need to be able to unwind and say crazy things to friends and to confess secrets and to engage in politics, which means saying something to some people that other people don't hear.

"That's part of human life, and no matter what the technology is, no matter how the culture might change in other ways, there's a certain core, nonnegotiable privacy that every human being needs."

The ACLU is on it, Stanley says, and success will come from the grassroots. Through CCOPS and other efforts, the ACLU works with community members across America to get laws passed that put communities back in control of important surveillance decisions.

Success, he says, will beget success. "Everybody can see the roof does not cave in," he insists. "Police are still effective at policing those places; they are just subject to checks and balances commensurate with the power of the technologies that they want to use. And we can use that to show other localities that this is something that they should do." ■



Surveillance 101: The Devices That Are Spying on You

AUTOMATIC LICENSE PLATE READERS are mounted on police cars, street signs and streetlights, and record the locations of vehicles and their drivers. Often this data is stored for long periods and can be mined by anyone with access to learn where people go, sleep, assemble and worship.

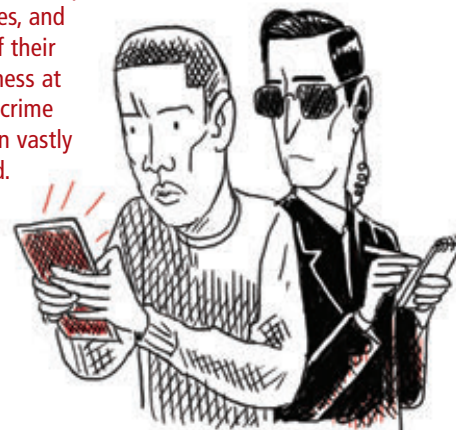
BIOMETRIC SURVEILLANCE goes beyond DNA and fingerprint identification. Government entities can identify you using facial features, voice patterns, even your gait, and compare certain features with data from social networks, motor vehicle departments and other databases.

CLOSED-CIRCUIT SURVEILLANCE CAMERAS are ubiquitous and invasive, used by law enforcement and private entities to monitor and record community members from afar. Facial recognition software and poor controls on storage threaten to chill people's rights to freely assemble and express themselves, and studies of their effectiveness at reducing crime have been vastly overstated.

SHOTSPOTTERS are microphones deployed throughout neighborhoods to detect gunshots. The scarcity of oversight and constraint on these microphones means they could possibly be used to listen in on private interactions and employed as mass-surveillance devices.

SOCIAL MEDIA MONITORING SOFTWARE is deployed by local law enforcement to target people, including by keyword. Hashtags such as #policebrutality and #blacklivesmatter have been used to flag people for scrutiny.

STINGRAYS simulate cell phone towers. Mobile devices connect to them and transmit data that include location, plus voice and text messages. Though law enforcement might target a single person, everyone in range is caught in the dragnet, meaning thousands of community members are surveilled without cause and without warrants.



WE THE PEOPLE

IN THE WAKE OF TRUMP'S ELECTION,
AMERICANS OF ALL AGES, RACES, RELIGIONS AND
POLITICAL PARTIES HAVE HELPED QUADRUPLE
THE ACLU'S NUMBERS. LEARN HOW THEY'RE
FIGHTING FOR THE BILL OF RIGHTS.

STORY BY
HARRIET BAROVICK

PHOTOGRAPHY BY
KATHRYN GAMBLE



KIM KNOX HAD ALWAYS GIVEN TO CHARITIES, USUALLY AFTER READING A MOVING STORY IN THE NEWSPAPER. SHE WOULD MAKE A GENEROUS DONATION AND THEN, AS SHE SAYS, “FORGET ABOUT IT.”

But in November, stunned and worried by the results of the election—and in fear of the growing vitriol that emerged in the campaign’s wake—she felt she needed to participate. “I had been feeling isolated after the election and wanting to get more involved,” she says.

She remembered having read about the ACLU’s determination to battle any infringements on civil liberties, and a

friend suggested exploring its work. “They were already fighting,” says the San Diego-based stay-at-home mother of two, “and that was exactly what I wanted to do.” After poring through the ACLU’s website, she joined.

In the week that followed, Knox was struck by the ACLU’s response, which included a warm thank-you, as well as an invitation to an event featuring a constitutional law expert. She has since attended several ACLU rallies and looks forward to “lobby day” in the California state capital, Sacramento, where participants learn the issues and then talk with state politicians.

Knox is not alone in her desire for engagement and activism.

Since

the election, the number of ACLU members and supporters has quadrupled, to 1.6 million. More than 2.6 million people have responded to the ACLU’s action alerts, and the number of ACLU social media followers has quadrupled. Members hail from a host of ethnic, racial, religious and political backgrounds: conservative first-time donors, LGBTQ activists, millennials just grasping the urgency of mobilizing...and everyone in between. They may not agree with every ACLU position, but they are united in a desire to protect the Bill of Rights. And increasingly, besides financially supporting the ACLU, they want to be part of the resistance.

To harness that energy, the ACLU in March launched a nationwide grassroots initiative, People Power, with the goal of organizing and mobilizing local activists, and furnishing them with tools to lobby their local and state officials. The initiative’s interactive website, PeoplePower.org, livestreamed the kickoff event, a resistance training session at the Univer-

sity of Miami that zeroed in on ways to protect immigrants. The event drew 2,500 people, and more than 200,000 ACLU supporters viewed it at over 2,300 house parties around the country. The site registered 1 million online views, and more than 4,000 follow-up events were scheduled.

SHAADIE ALI, AN ACLU activist and student leader at the University of Wisconsin in Madison, was instrumental in organizing his school’s People Power event, where some 50 students and faculty showed up to watch and exchange contact information for future meetings.

“There are a lot of relevant hearings of state legislators here in Madison, so we talked about getting people together to go to those,” says the leader of the campus ACLU Student Alliance, who first became involved with the ACLU as a high school junior in Greendale, Wisconsin, in 2013.

Ali got involved when he became distressed by overreach in the Obama White House,

KIM KNOX

THE ACLU WAS ALREADY FIGHTING AND THAT WAS EXACTLY WHAT I WANTED TO DO.



particularly regarding law enforcement surveillance of Muslims. He discovered that the ACLU had filed many of the cases he was concerned about. “They have been part of nearly every important civil rights and civil liberties case since 1920,” he says. “I wanted to be a part of that.”

The 21-year-old youth leader, who sports an ACLU hat in his Facebook profile photo, is also something of an ambassador for the organization. (“My entire Facebook feed is me promoting ACLU events,” says Ali.) He currently serves as the youngest member of the ACLU of Wisconsin board of directors.

That may sound like a tall order for a 21-year-old, but Ali had a dedicated and experienced mentor: Emilio De Torre, the ACLU’s director of youth outreach in Milwaukee. The former schoolteacher, who has spearheaded the ACLU’s youth programs since 2006, runs an array of initiatives to help cement a newly energized youth membership. During the last year, De Torre noticed a dramatic uptick in participation, as well as a broadening of membership demographics.

“There were always political

kids who were driven, but now I see a lot more mainstream kids interested in supporting the ACLU,” De Torre says. “Even Banned Books Week is sexy again,” he says of the annual event to draw attention to censorship.

THAT GOES FOR membership at large too. The ACLU’s long history as a nonpartisan organization with a presence in all 50 states has drawn respect and support from a range of individuals with varying backgrounds. Among them: attorney Ted Olson, former U.S. solicitor general under President George W. Bush, who famously represented Bush against Al Gore before the Supreme Court following the 2000 election. Olson, whose numerous high-profile cases include 62 argued before the Supreme Court, counts as his proudest career accomplishment his work as a lead lawyer in the successful challenge to California’s Proposition 8, which banned same-gender marriage. Later, he worked with the ACLU in its successful fight to strike down the Defense of Marriage Act, a win that laid the groundwork for a subsequent Su-

preme Court case, *Obergefell v. Hodges*, which made marriage equality the law of the land.

Olson is not an ACLU member but says he has donated, most recently at the end of 2016, “because I appreciate what the ACLU is doing. I don’t always agree with every litigating position they take, or every stand they have taken, but I very much respect the fact that someone is there with the resolve and commitment to the Constitution, and willing to take on cases and causes and bring them to court for resolution, however popular or unpopular they might be.”

Olson calls activism in support of one’s principles “sort of what America is all about,” adding that helping facilitate such assembly “seems very noble to me.”

Similarly, former Washington state GOP Chairman Chris Vance has called the ACLU “very consistent,” telling *The Washington Post* in March, “They stand up for the Bill of Rights.” As the *Post*

reported, Vance joined the ACLU for the first time early this year, following President Donald J. Trump’s first executive order banning from the United States immigrants and refugees from seven predominantly Muslim countries.

That order was a watershed moment for the ACLU. After nine decades of taking the lead in seminal civil rights cases, including overturning extreme voter ID laws, fighting for freedom to marry and defending individuals’ privacy and First Amendment rights, on January 28, the ACLU once again was on the frontlines. That was when, one day after Trump issued his first immigrant ban, the organization successfully petitioned federal Judge Ann M. Donnelly to stay key parts of the order.

SHAADIE ALI

MY ENTIRE FACEBOOK FEED IS ME PROMOTING ACLU EVENTS.



Television cameras captured Executive Director Anthony D. Romero and ACLU attorney Lee Gelernt walking out of court, exhausted but elated, and speaking to reporters.

“On week one,” read a succinct tweet from the ACLU’s national office that evening, “Trump suffered his first loss in court.” Dale Ho, director of the ACLU’s Voting Rights Project, added on Twitter: “We won. Stay is national.”

The win’s enormity lit up Twitter with grateful comments, dubbing the ACLU “heroes.” It also sparked offers from business leaders and entertainers, such as Sia and Rosie O’Donnell, to match ACLU donations. Actress Sarah Paulson used her acceptance speech at the Screen Actors Guild Awards to ask people to donate. That week-end alone, the ACLU received a record \$24 million in online donations—which, among other things, has enabled the hiring of an additional 100 staff attorneys to fight the Trump administration’s lawless proposals.

IF ANYONE DOUBTS the power of ACLU members to move issues, online and on the streets, they should talk to Chris Anders, deputy director of the ACLU’s Washington Legislative Office. In 2015, Anders organized “push-through” calls to senators in support of a bipartisan anti-torture bill jointly sponsored by senators John McCain and Dianne Feinstein. ACLU staffers called members and activists in key states, explained the issue, then connected them directly



EBONY SPEAKES-HALL

WHEN I LEAVE AN ACLU BOARD MEETING, I FEEL I’VE DONE JUSTICE.

with their senators’ offices to urge support of the bill.

Anders recalls visiting one of the politicians’ offices as calls lit up the phones. “It was fun to watch it happen,” he says. Other factors contributed to the bill’s passage, adds Anders, but “this was a case where the support from members really made a big difference.”

Besides collective action, many ACLU members advocate individually. Dayton, Ohio, preacher and college professor Ebony Speakes-Hall, who sits on the board of the ACLU of Ohio, has woven the organization’s cases into her teachings from the pulpit, for example affirming LGBTQ congregants by discussing the ACLU’s historic 2015 marriage equality win.

At Central State University, where she teaches social work, many of her students are the first in their generation to attend college and have also been touched in some way by the

criminal justice system. “They come from highly policed areas, like Chicago or Detroit, or have a parent who was incarcerated,” she says. “One of my students was home on break and was humiliated when a police officer pulled her over and didn’t believe she was in college until she showed her school ID.” Speakes-Hall has enlisted ACLU staffers to talk about civil rights to her students. Though her ACLU board work focuses on budget issues, she enjoys hearing about everything else. “I’ve sat on a lot of boards,” Speakes-Hall says, “but when I leave an ACLU board meeting, I feel I’ve done justice.”

DOING JUSTICE, especially in conservative regions, is a strong pull for other members. Timothy Brown, a fixture at the ACLU office in Jackson, Mississippi, was drawn to the ACLU be-

cause of its role in empowering marginalized young people. Last August, Brown volunteered to help manage the affiliate’s annual one-day Schoolhouse Rights Rock event. A record 300 middle and high school kids traveled by bus from all over the Delta region to participate in workshops on topics that included LGBTQ rights, the use of restraint and seclusion in schools and encounters with law enforcement.

In another red state, Salt Lake City, Utah, attorney and ACLU member Heidi Chamorro also finds comfort in contributing her skills. “Especially here in Utah,” Chamorro says, “there’s just no one like the ACLU.” Chamorro, who sits on the local ACLU of Utah board, has run workshops to help guide undocumented youths applying for Deferred Action for Childhood Arrivals. The Obama administration program allows

undocumented immigrants who came to the United States as children to apply for work permits and temporary protection against removal.

THAT SENSE of safety the ACLU provides made a big impression on Nevada immigrants' rights activist Astrid Silva. She arrived in the United States from Mexico with her family at age 4, carrying just a Ken doll and her baptism cross. That makes her a "Dreamer," and not just in her optimism. The term derives from the DREAM Act, which would grant conditional residency to undocumented immigrants who arrived as children and could lead to permanent residence. It has never passed Congress.

Silva grew up hearing news about the ACLU and came to know its staffers through her job as a community activist. Now 29, she has worked with the ACLU of Nevada in support of people at risk for detention and was among those protesting Trump's immigration ban at the Las Vegas airport in January.

Her inspiration to join the ACLU, however, came at a 2015 Pride festival, when she staffed a booth for another nonprofit organization. "I remember my booth was right next to the ACLU booth and people kept coming up to thank them," she says. "I don't think I've ever seen that many people saying thank you!"

A rising Democratic Party star, Silva spoke at the party's national convention last summer and traveled to Washington in February to give the Spanish-language response to President Trump's address to Congress. On her way to D.C., she recalls texting with ACLU of Nevada Executive Director Tod Story about the arrest and planned deportation of Dreamer Daniela Vargas, who had spoken out about her family's experiences. Community pressure has since led to Vargas' release.

"The ACLU has always been the ones protecting, sending a lawyer to a protest, making sure people were OK," Silva

says. "More than ever, [undocumented] people need to come out and share their stories. Doing that is scary. The fear is never going to go away. But knowing we have the ACLU and other strong allies backing us up makes it more bearable."

Given the agenda of the current White House, the member momentum shows no signs of slowing. At the resistance training in Florida, the ACLU's Faiz Shakir, the mastermind of the People Power initiative, shared his email address (fshakir@aclu.org) and urged the audience to offer their ideas for resisting Trump. He says he now receives about 1,000 emails daily—and responds to each one.

Shaadie Ali, the Wisconsin college student, says responsiveness to causes big and small is what makes the ACLU's work so meaningful. "They are taking big federal cases of course, but they are also here

at the community level, reaching out to people where they are and providing resources for them," he says.

Ali recalls a recent event not long after the immigration ban, when the city of Madison held a forum on immigrants' rights. Organizers expected 500 people; 2,000 showed up. Ali staffed a table for the ACLU. "People were coming up asking how they could give us money, and we ran out of donation envelopes—that had never happened before," he recalls, still struck by the memory.

That passion—from energized members new and old—will be essential for the long fight ahead. ■

ASTRID SILVA

THE FEAR IS NEVER GOING TO GO AWAY. BUT KNOWING WE HAVE THE ACLU AND OTHER STRONG ALLIES BACKING US UP MAKES IT MORE BEARABLE.



The Guide

ARTS & CULTURE

VISUAL ART

THREE QUESTIONS FOR DREAD SCOTT

STAND INTERVIEWS ARTIST DREAD SCOTT, WHO FIRST RECEIVED NATIONAL ATTENTION IN 1989 OVER HIS ART INSTITUTE OF CHICAGO EXHIBIT THAT INVITED PEOPLE TO STAND ON THE AMERICAN FLAG.



Dread Scott

Is all art political?

Yes. But not all art is progressive or openly political. Artists who choose to turn away from some of the big questions facing humanity—that's a political choice too. Those who feel a desire to speak to what's going on enable people to transform the world in the deepest interest of humanity and at the same time have a joyous aesthetic experience.

How can art transform the world?

Art is not the same as a political essay or going to a demonstration. But it does

allow people to engage with ideas, and that creates a space for new ways of thinking that might not even have been the intent of the artist. The audience brings something of themselves to it as well. As people go to museums and plays, read books and listen to music, they're thinking about how to navigate the world. *Imagine a World Without America* (a 2006 Dread Scott work), for instance, provokes you to think about what that reality would look like.

Any advice for activists?

Historically, people have prevented monstrous crime by standing in the streets and voicing profound dissent.

There is a real imperative to resist fascism and drive it from power. We saw people at the Parks Department defy the president by tweeting photos of the inauguration crowds. I hope some people at the TSA will say, "No, I'm not going to enforce this fascist policy—the Muslim ban." Of course, others are clearly eager to enforce Trump's policies. We're fighting something truly monstrous: a guy who's going to start wars, deport millions, undermine the judiciary and suppress the media. People need to do the right thing, even at personal risk.

 [More info at DREADSCOTT.NET](http://DREADSCOTT.NET)

PAGES

On Our Bookshelf

WHAT MOVED PUBLIC OPINION on marriage equality from unthinkable to inevitable? What led George W. Bush to curtail so many of his most aggressive "war on terror" measures? And how did the NRA win protection of an individual right to bear arms?

In *Engines of Liberty: The Power of Citizen Activists to Make Constitutional Law* (Basic Books, 2016), David Cole, the ACLU's national legal director and an acclaimed constitutional scholar, takes up these questions. He argues that the true drivers of constitutional change are not judges and appellate lawyers, but citizens, working together through associations like the ACLU, that engage in a wide range of advocacy in defense of liberty.

In this inspiring book, never more relevant than in the age of Donald Trump, Cole examines how citizens succeeded in bringing about major constitutional reform in a range of areas and offers important lessons for activism going forward.

 This book and more at ACLU.ORG/STORE

DIGITAL MEDIA

A New Kind of Game

» By Heather-Ann Schaeffner

Sexist backlash against female video game designers—including the harassment and online attacks collectively dubbed "Gamergate"—has not impeded the release of excellent

female-designed games featuring diverse subjects and styles. Many games illuminate some social truth by highlighting a viewpoint the player might not otherwise encounter. Here are a few of our favorites:

Freshman Year (available at ninasays.so/freshman-year): Nina Freeman's short yet compelling exploration of the female

experience is set in a college bar. The player, waiting for a friend, must navigate the unwanted attentions of male suitors, who range from persistent to aggressive.

Mainichi (available at mattiebrice.com/mainichi): Mattie Brice's simple game takes players through her daily experience as a transgender female. Your

choices affect the reactions of others and build empathy with how seemingly simple actions affect the lives of the socially marginalized.

First Draft of the Revolution (available at inklestudios.com/first-draft): Emily Short's latest game explores the nuance of gender roles and expression through letter-writing. Set in pre-

revolution France, the game also features a dash of magic.





FILM

Screening Choice

TWO DECADES AGO, the breakthrough HBO series *If These Walls Could Talk* brought the conversation about abortion into pop culture via three stories set in the same house but in different eras: 1952, 1974 and 1996.

Here are some other films that looked at how access to abortion—or the lack of it—affects women’s lives:

DIRTY DANCING (1987). The beloved box-office hit, set in the early 1960s, includes a subplot about an illegal abortion.

CITIZEN RUTH (1996). In this dark comedy, Laura Dern plays a troubled, impoverished woman thrust into an abortion debate.

OBVIOUS CHILD (2014). This unapologetic film follows a 20-something comedian’s decision to have an abortion.

GRANDMA (2015). Lily Tomlin, in the title role, goes on a road trip to help her granddaughter raise money for an abortion.

TRAPPED (2016). An award-winning documentary that aired on the PBS series *Independent Lens* reveals how Targeted Regulations of Abortion Providers—“TRAP laws”—restrict abortion access.

PAGES *Chokehold: Policing Black Men* (2017, *The New Press*)

A SYSTEM DESIGNED TO DISCRIMINATE

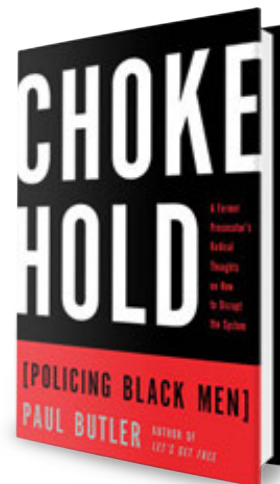
» **By Dennis Parker**

DERIVING ITS TITLE FROM THE POLICE TACTIC designed to force submission of suspects, predominantly black men, Paul Butler’s *Chokehold: Policing Black Men* scathingly denounces racial discrimination in the criminal justice system. The author, a former federal prosecutor, concludes that rather than spotlight law enforcement gone wrong, the onslaught of videos depicting police abuses demonstrates that the system does exactly what it was designed to do.

Butler takes on difficult issues: He examines black-on-black violence, looks at the impact of defining black men as an “endangered species” and challenges the long-term efficacy of strategies by civil rights organizations, including the ACLU, to reform existing criminal justice practices. His guidance for how black men should interact with police—“[T]his is not a time for civil liberties. This

is a time for being dominated by the state...” —is particularly painful to read, but like the rest of the book, demands careful consideration.

There is arguably no better or worse time for Butler’s book. Better because, as highlighted by the recent election, the aspects of the system that make it irredeemably infected with racial discrimination seem particularly obvious. Worse, because Butler’s prescription for addressing the problem—wholesale elimination of the existing system—seems particularly difficult to bring about in the current climate.



PAGES

TRANSGENDER CHILDREN’S BOOKS TARGETED

» **By Sarah Jane Abbott**

FOR OVER A DECADE, *And Tango Makes Three* (Simon & Schuster, 2005), a picture book about two male penguins raising a chick together, has made headlines as one of the most banned and challenged books in America. The struggle to keep LGBTQ children’s books on shelves is ongoing, especially books about transgender and gender-nonconforming characters.

I Am Jazz (Dial, 2014) and *My Princess Boy* (Aladdin, 2009), picture books about a transgender girl and a gender-nonconforming boy, respectively, are identified by the American Library Association as frequently banned or challenged for reasons ranging from “religious viewpoint” to “unsuited for age group.” Books for older children, such as *George* (Scholastic, 2015), a novel about a transgender fourth-grader, and *Beyond*

Magenta (Candlewick, 2014), a nonfiction book about transgender teens, also are among the most challenged. Reasons include being “anti-family” and having a “political viewpoint.” These books provide much-needed representation for LGBTQ children and families. Keeping them accessible gives all children a window into their peers’ lives and fosters empathy and respect.



CREATIVE LIBERTY



From left, *Top Chef* season 11 contestant Justin Devillier and judges Donald Link, Padma Lakshmi and Toby Rodriguez.



Jimmy Fallon interviews Lakshmi on *The Tonight Show*.

STATS

personal

Author and Emmy-nominated host of Bravo's *Top Chef* since 2006

Age: 46 (born September 1, 1970)

Lives in New York City with her daughter, Krishna, 7

career highlights

- First Indian-American supermodel
- Appeared on various magazine covers: *Redbook*, *Newsweek*, *Vogue India* and *Cosmopolitan*
- Author of three books on food: *Easy Exotic* (1999), *Tangy, Tart, Hot & Sweet* (2007) and *The Encyclopedia of Spices & Herbs* (2016)
- *New York Times* best-selling memoir, *Love, Loss and What We Ate* (2016)
- Recipient of a 2016 Ellis Island Medal of Honor from National Ethnic Coalition of Organizations
- Cofounder of the Endometriosis Foundation of America



IN HER WORDS: AUTHOR & TV HOST PADMA LAKSHMI

The Women's March was my very first protest. I had signed petitions or added my name to open letters, but I had never held a sign or showed up anywhere to openly protest like that. My daughter, Krishna, who is 7, held a sign that said, "Girls' rights are human rights," and my sign said "Equality. Freedom."

I'm used to speaking before large crowds, but I'm usually talking about paella. When the ACLU asked me to speak at the People Power Resistance Training seminar, I was simultaneously humbled, flattered and terrified. Like many people, I feel like my understanding of what "makes America great" is not being preserved or respected. And it was a way to channel all of that frustration I feel as a woman, as an immigrant and as an American citizen.

Most immigrants come to this country to work toward a better life for themselves and their families. I first came here when I was 4 years old to join my mother, a nurse, who'd left me back in India two years prior. She had ended an abusive marriage and arrived here in America with exactly \$100 in her pocket.

Being in a privileged position today, I'm not worried that anyone is going to try to send me back to India. But I worry for all those little girls who are this generation's me, when I was a kid.

Children are not born racist. I was bullied as a kid because of my ethnicity, but I know that bully was projecting learned behavior onto me. That's why it's so important that our children meet those who are different from them, in their schools or on the playground, and they see that their world is full of different colors and ethnicities, because that is the world we live in.

It's clear that our culture is enriched by international influences. For *Top Chef*, I've spent six weeks living in cities all over the United States, and I found it's true not only with food, but with literature and art and music. It's hard to separate American culture from world culture. Where else can you get Sriracha honey Buffalo wings?

Democracy is like a garden that you have to tend and water and give sunshine to. It's something that is a living organism, and so we cannot let the darker forces within us poison that garden. And we have to remind people how that garden came to bloom in the first place.

America is more than its borders. America is an ideal. It's still that shining place on the hill, morally and ethically, for so many of us because of its history of inclusion and diversity.

THE ACLU IS THE ONLY CIVIL LIBERTIES ORGANIZATION IN THE COUNTRY WITH **A PRESENCE IN EVERY STATE**, AS WELL AS THE DISTRICT OF COLUMBIA AND PUERTO RICO, HANDLING REQUESTS FOR **LEGAL ASSISTANCE, LOBBYING STATE LEGISLATURES AND HOSTING PUBLIC FORUMS**. HERE ARE **HIGHLIGHTS OF SOME CASES AND PROJECTS** HAPPENING AROUND THE UNITED STATES.



Yvonne Allen

ALABAMA

In keeping with her Christian faith, Tuskegee resident Yvonne Allen wears a headscarf. But when she visited a Lee County office to renew her driver's license, the staff insisted that only Muslim women could claim the religious accommodation. They also ridiculed Allen's beliefs; one clerk, who was Christian, proclaimed that she felt no need to cover her hair. Teary, the single mother of two removed the headscarf, knowing she couldn't afford to be without a car. When the ordeal was over, she contacted the ACLU.

Last year, the ACLU wrote state officials requesting an accommodation for Allen's faith and noted that failure to do so violated the Constitution's religious freedom clause. When officials ignored the request, the ACLU sued.

In January, the case was settled, and Allen received a

new license photo in which she wears her headscarf.

CALIFORNIA

In California, as across the country, civil asset forfeiture laws have allowed police to seize innocent people's cash and property, simply by alleging criminal connection. Today, civil asset forfeiture has been perverted into an ongoing attack on people who can't afford to fight the government in court, a burden that falls disproportionately on low-income people of color.

California law imposes reasonable restrictions on civil asset forfeiture, but the ACLU of California found state agencies circumvented the law by partnering with the federal government on "equitable-sharing" programs that allowed them to keep or sell 80 percent of seized property.

Last year, through bipartisan advocacy led by the ACLU of California, the state passed a landmark bill that bars California law enforcement agencies from bypassing state law in favor of federal seizure rules and, in most cases, requires a conviction before permanently keeping people's property. The law went into effect the first of the year.

"This new law will not only rein in the abuse in California but also offers a blueprint

for other states seeking reforms," says Margaret Dooley-Sammuli, criminal justice and drug policy director with the ACLU of California.

FLORIDA

In dozens of states, a woman who has decided to have an abortion—unlike any other patient seeking any other form of medical care—must delay her procedure, typically 24 hours or more, after receiving certain state-mandated information. But in Florida and 14 other states, a woman has to receive the information in person, thus requiring an additional, medically unnecessary trip to the doctor. These laws especially burden low-income women, who are forced to arrange and pay for double the transportation, double the child care and double the time off work.

This year, Florida's Supreme Court agreed with the ACLU that the requirement "turns informed consent on its head, placing the State

squarely between a woman who has already made her decision to terminate her pregnancy and her doctor who has decided that the procedure is appropriate." The court found that the ACLU is likely to succeed in proving the law unconstitutional and blocked it from taking effect while the litigation continues.

OHIO

Prisons are the largest mental health service providers in Ohio, serving 10 times more people with mental illness than state psychiatric hospitals. But instead of focusing on treatment, they use punishment—including solitary confinement—as "rehabilitation." On any day, more than a quarter of those in solitary have mental illness, according a 2016 report by the ACLU of Ohio and Disability Rights Ohio.

Following the report's release, more than 500 Ohioans wrote to the state's prisons director, demanding reforms to the use of solitary and protections for people



Curt Freed and his husband, Robert Ingersoll, talk with ACLU of Washington Legal Director Emily Chiang. The couple successfully sued a florist for refusing to provide services for their wedding.

with mental illness. Last November, officials excluded from long-term solitary confinement all individuals with serious mental illness, as well as juveniles and pregnant women. The ACLU of Ohio continues to advocate for further reform, including the end of solitary.

RHODE ISLAND

When a birthday celebration at a Woonsocket nightclub led to words with a bouncer, police were called. Leaving the club with his friends, 25-year-old David Alves, who is deaf, signed the word “bullshit” at the bouncer. Police interpreted Alves’ action as giving them the finger and arrested Alves for making “an obscene gesture.”

During booking, Alves’ requests for a sign language interpreter were ignored, and a friend who aided him was told Alves would be held overnight “as a learning experience.” After Alves was released, a municipal court judge dismissed the charge.

The ACLU and the Rhode Island Disability Law Center sued, charging violations of Alves’ rights, discriminatory treatment due to his disability and failing to accommodate his disability. The city settled in January, agreeing, among other things, to repeal the provision authorizing Alves’ arrest. The city also adopted a policy providing communications aids and qualified sign language interpreters for those who are deaf or hard of hearing. Citing the settlement, the ACLU has warned the state’s other police departments to review their policies on

accommodations for the deaf to ensure they are in compliance with the law.

WASHINGTON

Curt Freed and Robert Ingersoll have been a couple since 2004. In December 2012, soon after Washington state recognized marriage equality, the two became engaged. In planning their wedding, Robert visited Arlene’s Flowers, which the couple had used. He was shocked and hurt when the owner told him she would not sell them wedding flowers because she believed “biblically, marriage is between a man and a woman.”

Fearing further discrimination, the couple stopped planning for a big wedding and were married on July 21, 2013, in a small ceremony at their home. Three months later, the ACLU of Washington sued on their behalf, saying state law requires businesses serving the public to serve everyone without regard to race, religion, gender and sexual orientation. They won in 2015, and the florist appealed.

In February, the state Supreme Court unanimously affirmed the lower court’s finding that the florist’s actions violated the longstanding Washington Law Against Discrimination and the Consumer Protection Act.

“Religious freedom is a fundamental part of America. But religious beliefs do not give any of us a right to ignore the law or to harm others because of who they are,” says Elizabeth Gill, a senior staff attorney with the ACLU’s LGBT Project.



DEFENDING DISSENT

THIS YEAR HAS SEEN HISTORIC LEVELS OF PROTEST, starting with the Women’s March in January, said to be America’s greatest one-day turnout in the streets.

The response to democracy in action? Legislators in at least 18 states have proposed new laws to criminalize protests. Some have been introduced under the guise of protecting public safety, but they all have one intent and effect: Suppress dissent.

For example, in response to a year of protests near Standing Rock reservation in North Dakota, that state’s legislature attempted to legalize using a car to kill protesters blocking roadways, as long as the death was “unintentional.” A similar bill was introduced in Tennessee. In Washington state, a senator wants to designate as “economic terrorists” those who block roadways.

“Even the legislators who have introduced these bills have acknowledged that they are responding in large part to robust protest that has happened in their area,” says Lee Rowland, a senior staff attorney with the ACLU’s Speech, Privacy and Technology Project. “They just have a very different take on those protests. They see them as an inconvenience rather than a success story of our democracy.”

Local ACLU offices have scored major victories on behalf of protesters in Louisiana and Minnesota, but the fight goes on. The ACLU will continue to work in legislatures to stop these bills and to overturn them in courtrooms if they are passed. “In addition to being unconstitutional,” Rowland says, “these bills are fundamentally un-American.”

RESISTANCE

FIGHTING TRUMP ON FOUR KEY FRONTS

THE ACLU IS RESPONDING ON ALL FRONTS TO AN UNPRECEDENTED ASSAULT ON LIBERTY. WE ARE AT THE VANGUARD OF A 50-STATE MOVEMENT STANDING UP TO AUTOCRACY.

HOURS AFTER PRESIDENT Donald J. Trump signed his infamous Muslim ban, airports tipped towards chaos as U.S. Customs and Border Protection agents began detaining passengers—U.S. citizens, permanent residents, green card holders, visitors with valid visas—and threatening immediate deportation. As its phone lines lit up and email inboxes filled, the ACLU immediately mobilized with other legal organizations for a round-the-clock defense of human rights.

“We spent all night that Friday working with folks at the Yale Law Clinic and the National Immigration Law Center and the Internation-

al Refugee Assistance Project,” says Omar Jadwat, director of the ACLU Immigrants’ Rights Project, “just cranking stuff out to prevent people from being deported and to prevent them from being detained in the United States. More broadly, we were trying to get some relief for what we were hearing were many, many people stuck in the same situation—a growing number by the hour around the country.”

The 24-hour days continued into the weekend. One day after the ban went into force, a federal judge granted the ACLU’s request for an emergency hearing. That night the judge sided with the ACLU, blocking the deportations and ordering customs officials to provide a list of people who were detained because of the ban. It was the first successful challenge of a Trump executive order, and energized national opposition to the president and his inhumane policies.

The ACLU and its 50 state affiliates

have filed 12 other suits challenging the Muslim ban, including obtaining a preliminary injunction preventing version “2.0” from going into effect. They’ve also coordinated 18 Freedom of Information Act requests with U.S. Customs and Border Protection offices to expose the deliberate chaos stemming from the ban. The ACLU is advising sanctuary cities under economic siege by Trump orders and is building legal challenges to the roundup of immigrants. Only a national organization with robust affiliates in every state could have mounted such resistance.

The ACLU was successful in part because it foresaw the threat to civil liberties that could emerge from a Trump presidency and had prepared to take action, even before the election. In 2016, the organization issued “The Trump Memos,” a constitutional analysis of Trump’s statements and proposals, noting specifically that a Muslim ban was on the horizon and outlining how that might be defeated.

Before Trump took office, the ACLU issued a seven-point plan to respond to his promised trampling of rights: demand accountability; protect immigrants’ rights; defend reproductive, LGBT and First Amendment rights; guard civil rights and civil liberties; and mobilize the organization’s nearly 3 million activists to help in the resistance. In every instance, the ACLU is repelling an assault on the Constitution by a man who seems never to have read it.



REPORT

MULTI-FRONT OFFENSIVE AGAINST IMMIGRANTS

THE ACLU'S STOPPING PRESIDENT TRUMP'S FIRST

MUSLIM BAN has not softened his desire to prevent Muslims from entering the United States. In March, a second executive order banned immigrants from six 90-percent Muslim countries. Ruling in an ACLU case, a federal judge in Maryland blocked the core of the ban; another federal judge, in Hawaii, found the revised order as unconstitutional as the first.

Continuing his assault, a Trump executive order threatened to cut off federal funds to over 200 U.S. "sanctuary cities" that welcome undocumented immigrants and refugees. More than a dozen ACLU affiliates are working with communities to hold the line against Trump's economic siege.

State legislatures have introduced anti-immigrant bills, which ACLU affiliates are laboring tirelessly to oppose. The ACLU also is working hard to thwart other aspects of the administration's incredibly harsh immigration agenda.

**BEFORE
TRUMP
TOOK
OFFICE,
THE ACLU
ISSUED
A SEVEN-
POINT
PLAN TO
RESPOND
TO HIS
PROMISED
TRAMPLING
OF RIGHTS**



ATTACKS ON LGBT RIGHTS

THERE'S NO QUESTION PRESIDENT TRUMP HOPES TO STOP PROGRESS toward LGBT equality. He started with some of the most vulnerable: transgender children.

Weeks into his administration, Trump rescinded Obama-era guidelines that protected transgender students from discrimination. The ACLU was about to argue a Supreme Court case on behalf of 17-year-old Gavin Grimm, who challenged his high school's restroom policy that segregates transgender students from their peers. Because of the change in guidance, the justices returned this potentially landmark case to a lower court for reconsideration.

Emboldened by the administration's disregard for LGBT rights, states such as North

Carolina continue to press forward with laws that bar protections for transgender people. The Texas House just advanced a bill that would allow taxpayer-funded adoption and child welfare agencies to refuse placements with LGBT prospective parents, putting religious beliefs ahead of the best interest of children in their care. This year, 22 states have introduced at least 48 religious exemption laws to limit LGBT persons' rights. The laws effectively allow discrimination against LGBT people in everything from adoption to health care to social services and even to marriage.

The ACLU is organizing activists to make their voices heard in legislatures. Where discriminatory bills become law, we're fighting back in court.

ATTEMPTS TO DESTROY VOTING RIGHTS

PRESIDENT TRUMP'S LIES ABOUT

UNLAWFUL VOTING have emboldened state governments attempting to institute restrictive voting policies and instigated others to join in the suppression. "There is a new wave of laws restricting voting rights being proposed since the election, inspired by the lies coming out of the administration," says Dale Ho, director of the ACLU's Voting Rights Project.

Michigan tried to institute a new restrictive voter identification law. Iowa,

Arkansas, Nebraska and New Hampshire have similar initiatives. Iowa would restrict early voting and student voting. Texas and Virginia are considering requiring excessive documentation to register. These bills, says Ho, suppress votes disproportionately among communities of color, the elderly and the poor.

The ACLU has successfully challenged such laws for years and is marshaling activism and legal arguments against these latest attacks.

EMPOWERING COMMUNITY MEMBERS: TAKE LOCAL ACTION

IN MARCH, THE ACLU LAUNCHED PEOPLE POWER, a national movement that guides and trains local activists to help the ACLU resist President Trump's policies not only in the courts but also on the streets.

The first major initiative, "Freedom Cities," gives participants the tools to ensure their communities are welcoming of all immigrants. The effort builds on the "sanctuary cities" concept to include nine model policies, such as bias-free policing and prohibitions on surveillance. As activists make progress, efforts can expand to include issues such as LGBT ordinances

and police reform. One thousand follow-up events have been scheduled to move this agenda forward.

At one such event in Oregon, 25 people met with Umatilla County Sheriff Terry Rowan, who affirmed his office was consistent with the nine policies in almost every point. Organizer Miriam Gilmer told the *East Oregonian* newspaper that the group may next ask the city council to adopt the model policies.

 Find out more at PEOPLEPOWER.ORG

TOGETHER, WE RESIST

“WE’LL SEE YOU IN COURT.” WITH THOSE FIVE WORDS, THE ACLU WARNED NEWLY ELECTED DONALD J. TRUMP THAT WE WOULD TAKE ACTION IF HE TRIED TO IMPLEMENT HIS THREATENED OFFENSIVE ON OUR CONSTITUTIONAL RIGHTS. AND WE DID.

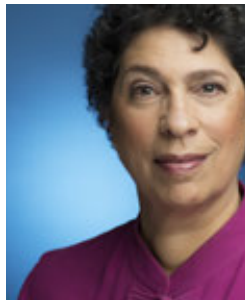
We went to court and halted the first Trump immigration ban just one day after it was signed. Since then, ACLU staff have continued to work overtime on strategies to shut down the revised version of that discriminatory ban, as well as the new administration’s myriad other assaults on the Constitution.

The power of those five words lies in the fact that the ACLU is the only organization with the resources and national infrastructure to respond so quickly and effectively to nationwide threats to our rights. Affiliates in New York, Maryland, California, Washington state and elsewhere joined with national staff attorneys to oppose the Muslim ban. Thousands of members, supporters and volunteers flooded airports, demanding release of the illegally detained. And the ACLU’s 50-plus affiliates organized with breathtaking speed to file coordinated demands all around the country for information about federal compliance with the order to end airport detentions. This remarkable achievement exemplifies the unique strength of the ACLU.

We have spent years investing heavily in ACLU offices in states where the threats to civil liberties are the greatest, and resources the scarcest. Those efforts are about to become even more important. The Trump administration’s audacity has emboldened officials in state governments to propose a slew of measures once unthinkable in a free society.

States are dreaming up new ways to suppress the votes of people of color. Reproductive rights are in serious danger: Missouri legislators, for example, want to authorize courts to declare custody over embryos. Kentucky lawmakers are trying to force sonograms on women seeking abortions and coerce those women to look at the sonograms as medical personnel graphically describe the images.

Even the ability to express dissent is under attack. After anti-Trump protests, the Arizona legislature proposed authorizing the seizure of a community organizer’s home if a peaceful protest turns violent.



**STATES ARE
DREAMING UP
NEW WAYS TO
SUPPRESS VOTES
AND ENDANGER
REPRODUCTIVE
RIGHTS.**

Responding to demonstrations against the Standing Rock pipeline, the North Dakota legislature took up a bill to legalize the “unintentional” murder of protestors with one’s car.

No wonder so many people are reading 1984.

The ACLU is battling such outlandish proposals in legislatures and courtrooms in virtually every state. We’ve also launched a major new grassroots mobilization platform, PeoplePower.org, to take the fight against Trumpian policies into the streets and town squares.

When we began building the power of our state affiliates more than a decade ago, we could not have predicted a Trump presidency or the surrounding epidemic of horrific state legislative proposals. But because we knew we had to be ready for anything, today we are able not only to resist the states’ and Trump’s assaults but also to continue advancing our affirmative agenda for liberty.

It is indeed possible to make progress in this environment. In red-state Oklahoma, for example, we helped pass a November 2016 ballot initiative for criminal justice reform that will reduce the prison population, preserve families otherwise devastated by a school-to-prison pipeline and reduce recidivism. We hope to see our broad efforts to counter mass incarceration continue to bear fruit, even as we confront new challenges on other fronts. (To learn more about such efforts, turn to our feature article, “Justice from the Inside Out,” p. 11, about the ACLU’s work with formerly incarcerated leaders.)

Our new game plan will take a tremendous amount of legal and financial resources, but we are determined to outlast Trump and his allies. As always, the support of our members is vital. We cannot win this without you, and win this we must—and will.

SUSAN N. HERMAN is the ACLU’s president and also holds a chair as Centennial Professor of Law at Brooklyn Law School. She teaches courses in Constitutional Law and Criminal Procedure.

ACLU
MOMENT

Jan 28
2017



PEOPLE POWER

IN AN ACT OF RESISTANCE FUELED BY SOCIAL MEDIA, protesters began flooding airports in major U.S. cities the day after President Trump signed an executive order banning entry to the United States by citizens from seven Muslim-majority countries. By nightfall on Saturday, the crowds had swelled to thousands chanting, "Let them in!" while ACLU attorneys and their allies worked feverishly to aid those prevented from entering the country or threatened with deportation.

Less than 36 hours after the order was announced, a federal judge in Brooklyn granted the ACLU's request for an emergency stay of the ban. By the end of the week, judges in Massachusetts, Virginia and Washington state also had blocked parts of Trump's order.

And so, two things were born together: an executive order based on hatred of Muslims, and a movement to stop it.

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