2006 REPORT

ACLU FOUNDATION
AMERICAN CIVIL LIBERTIES UNION

WOMEN'S RIGHTS PROJECT

WOMEN'S RIGHTS PROJECT 2006 REPORT

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COVER PHOTO *(left to right)*: **Clients in *Espinal v. Ramco Stores*: Deyanira Espinal, Angela Berise Fritman Peralta and Maria Araceli Gonzales Flores**

AMERICAN CIVIL LIBERTIES UNION

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THE AMERICAN CIVIL LIBERTIES UNION is the nation's premier guardian of liberty, working daily in courts, legislatures, and communities to defend and preserve the individual rights and freedoms guaranteed by the Constitution and the laws of the United States.

THE ACLU WOMEN'S RIGHTS PROJECT is part of the National ACLU. It was founded in 1972 by Ruth Bader Ginsburg, and since that time has been a leader in the legal battles to ensure women's full equality in American society. WRP is dedicated to the advancement of the rights and interests of women, with a particular emphasis on issues affecting low-income women and women of color.

The Women's Rights Project has overall responsibility for implementing ACLU policy in the area of gender discrimination. WRP conducts direct litigation, files friend-of-the-court briefs, provides support for ACLU affiliate litigation, serves as a resource for ACLU legislative work on women's rights, and seeks to advance ACLU policy goals through public education, organizing, and participating in coalitions. WRP has been an active participant in virtually all of the major gender discrimination litigation in the Supreme Court, in Congressional and public education efforts to remedy gender discrimination, and in other endeavors on behalf of women.

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A MESSAGE FROM THE DIRECTOR

2006 was an exciting year for the ACLU Women's Rights Project (WRP). We advanced our core areas of focus and continued to play a unique role in the women's movement by bringing together four often-unrelated sectors of social justice advocacy – employment, violence against women, criminal justice and education. Through a dynamic program of litigation, public education, community outreach, and legislative advocacy, the Women's Rights Project has achieved systemic legal reforms and influenced public opinion so as to attain equality for women and girls. We also continue to incorporate novel international human rights strategies into our litigation and advocacy.

Our employment work focused on removing the barriers – both legal barriers and a lack of enforcement of established legal protections – that often leave women economically vulnerable and bar them from enjoying the various benefits of economic security. We advocated on behalf of low wage immigrant women working in retail stores, hotels, restaurants, and private homes to challenge the pervasiveness of labor and sexual exploitation experienced by women who work in these crucial, yet often undervalued, sectors of the service industry. In 2006 the Women's Rights Project achieved several exciting victories. We favorably settled cases on behalf of Asian, Latina, and African immigrant women seeking redress from sexual harassment, poor working conditions, wage violations, and labor trafficking. In one case brought on behalf of three Latina women who were employed in a discount retail store in upper Manhattan, a federal jury found that their employer had sexually harassed and assaulted them and awarded the women $455,000 in compensatory and punitive damages. WRP also used international human rights mechanisms to seek redress for immigrant laborers in the US. We filed a novel petition with the Inter-American Commission on Human Rights asking that the Commission find the United States in violation of its affirmative obligations under the American Declaration of the Rights and Duties of Man for its failure to protect millions of undocumented laborers from discrimination in the workplace and exploitative work conditions. We also continued to defend the rights of women who work in traditionally male occupations. In a suit on behalf of women in law enforcement, a federal jury in Long Island, New York found that the County of Suffolk Police Department's policy of barring pregnant officers from short-term limited duty assignments during their pregnancies discriminated against women officers at the department.

In 2006 the Women's Rights Project also expanded our violence again women program. We pursued our groundbreaking petition filed with the Inter-American Commission on Human Rights on behalf of Jessica Gonzales – a woman whose three daughters were murdered by her estranged husband after the police failed to arrest him for violating her order of protection. In the wake of the Supreme Court's ruling that Ms. Gonzales did not have a constitutional right to police enforcement of her protective order, the petition asks the Commission to find that the police failure to enforce the protective order and the US courts' failure to provide a remedy constitute violations of the American Declaration of the Rights and Duties of Man.

The Women's Rights Project also continued to expand our criminal justice program. Building on our work around women and the drug war and our publication of *Caught in the Net: The Impact of Drug Policies on Women and Families*, we collaborated with the New York Civil Liberties Union and V-Day, a global movement to stop violence against women and girls founded by playwright Eve Ensler, to produce a performance entitled "Any One of Us: Words From Prison" which was held at Lincoln Center in New York this summer. The sold-out performance by well-known actors used staged readings of writings by women in prison to expose the various ways that violence impacts the lives of women in prison, before, during, and after incarceration. This fall the ACLU and Human Rights Watch issued a report entitled *Custody and Control: Conditions of Confinement In New York's Juvenile Prisons for Girls*, which demonstrates the gross overuse of physical force, the prevalence of sexual abuse, and the dearth of educational and healthcare services available to girls in two facilities operated by the Office of Children and Family Services.

In 2006 the Women's Rights Project saw a new outgrowth of its longstanding commitment to equality in educational opportunity. In October, the Department of Education released new regulations under Title IX making it easier for public schools to provide sex-segregated classes. In anticipation of and response to these new regulations more public schools are segregating boys and girls into separate classes. This trend in educational theory is often predicated on retrograde gender stereotypes and junk-scientific theory that presupposes that all girls learn differently from all boys and consequently should be taught differently. This summer we brought and won a challenge against a high school in Louisiana that planned to separate all classes by gender when the school year commenced in the fall. We will continue our advocacy to ensure the constitutional guarantee of equal opportunity in public education for boys and girls.

Ruth Bader Ginsburg founded the ACLU Women's Rights Project in 1972 and until 1980, when Ginsburg was appointed to the Court of Appeals for the District of Columbia, she guided the project with her unflinching vision for women's full equality and equal participation in society. It is with one foot firmly rooted in the monumental achievements of Ginsburg and her staff, and one foot resting on our current victories that we look to the future, toward a world where girls and women can live their lives with agency, autonomy, and dignity. We are encouraged by the historic election of a woman to the post of Speaker of the House and hopeful that similar advances for women will follow. There are many challenges ahead of us, but with the strength of our sisters in the struggle, we will continue to explore novel ways to use litigation, legislative advocacy, human rights strategies, and public education to advance women's equality. Our work is made possible by our courageous clients and the unyielding dedication of our supporters, our partners in other women's and civil rights organizations, cooperating law firms, and colleagues in the ACLU National Office, the National Legislative Office, and the state ACLU affiliates. We sincerely thank all of you, and look forward to the many developments and challenges in the year to come.

Lenora M. Lapidus, Director

BELOW *(left to right)*: **Plaintiffs and attorneys in *Espinal v. Ramco Stores*: Deyanira Espinal, Staff Attorney Namita Luthra, Angela Berise Fritman Peralta, Staff Attorney Claudia Flores, Contract Attorney Sara Lesch and Maria Araceli Gonzales Flores**

AT LEFT *(left to right)*: **Plaintiffs in *Espinal v. Ramco Stores*, right from left: Angela Berise Fritman Peralta, Deyanira Espinal and Staff Attorney Claudia Flores**

EMPLOYMENT

The granddaughters of some of the women who marched for equal rights in the 1960s and '70s are entering the workforce – but steady jobs with living wages, safe working conditions and time off for medically necessary reasons continue to elude many of them. Even as barriers fall and salaries for some women rise, others work in sweatshop-like conditions, for less than the minimum wage. Despite laws designed to protect them, women can still be fired from some jobs if they become pregnant, or take time off to care for a sick child. Women still often occupy the least desirable jobs, are denied overtime pay or promotions, and are sexually harassed. Increasingly, they are being shunted into temporary or part-time jobs without pensions or health benefits – jobs that will leave them without resources as they age or become ill.

Because equal economic opportunity is the wellspring from which many other rights flow, the situation of low-wage women of color and immigrant women is of particular concern to the ACLU Women's Rights Project. Often unaware of their rights, these women are the focus of WRP advocacy and public education campaigns as well as litigation. Our goal in representing them is to ensure that all women, regardless of ethnicity, race or wealth, are able to work in environments free from discrimination and abuse. We also seek to secure women's advancement in traditionally male occupations, such as policing.

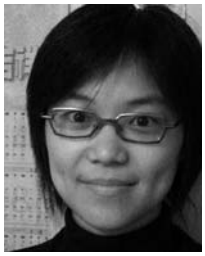
LOW-WAGE IMMIGRANT WOMEN WORKERS

Espinal v. Ramco Stores (S.D.N.Y.)

The Women's Rights Project won a major victory for three Latina employees of an upper Manhattan retail store who had been required to work up to seven days a week for as little as $30 a day, well below the legal minimum wage. These three women, Deyanira Espinal, Angela Berise Fritman Peralta and Maria Araceli Gonzales Flores, also received no overtime pay even though they worked well over 40 hours per week – often almost 60 hours a week. In addition to being economically exploited, they were sexually harassed and physically assaulted by the owner of the Ramco National Discount Store, Albert Palacci. After two years of discovery and settlement negotiations, this case went to trial in September of 2006. The three women testified as to the severe abuse and discrimination they were subjected to by their employer, the defendant Palacci. They described a daily work environment that included unwanted touching, grabbing and slapping, inappropriate comments and innuendos, and employment benefits conditioned on their willingness to engage in sexual acts with the defendant. As Ms. Peralta and Ms. Espinal described, on one occasion, Palacci took them to an abandoned apartment, ostensibly to clean it. He then locked the door, stripped off his clothes and demanded that they engage in sexual relations with him. When they refused, he tried to physically force them onto a bed. The three women testified to the emotional difficulty of having to endure this exploitative and abusive work place in order to support their children and themselves.

On September 29, 2006, after a week-long trial, the jury concluded that Palacci had indeed assaulted and sexually harassed his employees, awarding the women a total of $455,000 in compensation and punitive damages. The verdict exhilarated Claudia Flores, a staff attorney with the ACLU Women's Rights Project and co-counsel for the women. "Immigrant women should not have to face each day fearing that they will be harassed or assaulted at work," she declared. "We want to send the message that employers cannot exploit their workers with impunity." WRP filed this case with the law firm of Outten & Golden as co-counsel, and were assisted at trial by Sara Lesch and DOAR Litigation Counsulting.






THIS PAGE *(left to right)*: **Plaintiffs Carmen Calixto Rodriguez and Juana Sierra Trejo from *Sierra v. Broadway Plaza Hotel*, and Wei Chen and Nancy Eng, of Chinese Staff and Restaurant Workers Association, who have assisted WRP in *Liu v. King Chef* and *Fang v. Rainbow Buffet***

Sierra v. Broadway Plaza Hotel (S.D.N.Y.)

We also brought a successful suit against the Broadway Plaza Hotel on behalf of five housekeepers who were sexually harassed and denied overtime by their supervisor. In the suit, Juana Sierra Trejo, Gabriela Flores Viegas, Ines Bello Castillo, Carmen Calixto Rodriguez and Lucero Santes Vazquez charged that Felix David Buendia Ramirez, the hotel manager, tried to "kiss, hug and grope" them, telling the women that he had sex "with all the housekeepers." Each woman testified that he had yelled sexually explicit epithets at, and inappropriately touched her, or punished her with extra work for refusing his sexual advances. Eventually, Rodriguez said in her complaint, "I could not stand the thought of going to work because of the foul things Mr. Ramirez yelled at me and my co-workers." Even though they badly needed their jobs, two of the women said they felt they "had no choice but to stop working at the Broadway Plaza Hotel." The lawsuit was settled in February 2006, with the dismissal of Ramirez and the development of a hotel policy on sexual harassment. The hotel also began paying its housekeepers overtime. This case was successfully litigated along with Boies, Schiller & Flexner as co-counsel.

Fang v. Rainbow Buffet (D.N.J.)

WRP resolved a case on behalf of two Chinese waitresses, who charged that the Rainbow Buffet restaurant in Fairview, N.J., which employed them, failed to take any action after they complained of repeated sexual harassment by two male co-workers. In fact, the harassment got worse after Li Ping Wang and Mei Fang Li reported it to the restaurant's managers. Emboldened by supervisors' tolerance of their abusive behavior, the offenders stepped up their abuse, harassing the women so mercilessly that they felt they could not stay on, and quit their jobs. Working with several community and workers' rights organizations, including the New York-based Chinese Staff and Restaurant Workers Association, WRP, ACLU-NJ and Heller Ehrman won a favorable settlement in May 2006.

Liu v. King Chef (D.N.J.)

WRP also resolved a case against King Chef Restaurant in Wayne, N.J. on behalf of Mei Ying Liu and Shu Fang Chen, who received no wages, only tips, and had to pay a daily kickback amounting to $15 to $18 to the restaurant owners out of their tips. They also suffered gender and ethnicity discrimination, as men were routinely assigned to the better tipping tables. Furthermore, the defendants housed these women in an overcrowded, vermin-filled apartment with other workers. After extensive discovery and motion practice, in December 2006 WRP and co-counsel Kaye Scholer and ACLU-NJ, obtained a successful settlement with the defendants.

TRAFFICKING AND FORCED LABOR

Chere v. Taye (D.N.J.)

The horrors of trafficking and forced labor were targeted in the chilling case of Bele Chere, an Ethopian domestic worker who was trafficked to New Jersey and, once there, was forced to perform 75 to 80 hours of household chores per week, including child care, for no pay. She was required to sleep on the floor of the bedroom belonging to the family's toddler, and

(left to right): **Staff Attorney Claudia Flores with advocates from Global Rights, Andolan and CASA di Maryland at a Washington, D.C., training on diplomatic immunity and human rights**

was fed only bread, water and leftovers from the family's meals. She was verbally and sexually abused, denied access to medical care and prevented from leaving. She finally did flee, however, with the help of relatives, whom she contacted while the defendants were out of town.

Working with the Seton Hall School of Law Center for Social Justice and the ACLU-NJ, the Women's Rights Project accused her employers of violating federal and state labor laws, federal statutes and the 13th Amendment to the Constitution prohibiting involuntary servitude, international law prohibiting forced labor and trafficking under the Alien Tort Statute, and state torts. The lawsuit sought unpaid wages, as well as compensatory and punitive damages for her emotional distress. The case was settled after the completion of discovery in the fall of 2006.

OPPOSING PUNITIVE LAWS IN RHODE ISLAND

Another facet of human trafficking was addressed in Providence, R.I., where the ACLU of Rhode Island, the Rhode Island Coalition Against Domestic Violence, Rhode Island NOW and other groups opposed plans to introduce legislation in the General Assembly to expand the penalties for prostitution, even after a federal probe confirmed that many of the women arrested in raids in Providence were in fact victims of human trafficking. Their joint letter urged city officials to focus on the traffickers rather than the victims. Last year, the ACLU successfully lobbied against similar punitive legislation introduced by the city.

PROSTITUTION AND PUBLIC HEALTH

Alliance for Open Society International, Inc. v. United States Agency for International Development (2d Cir.)
DKT International v. United States Agency for International Development (D.C. Cir.)

WRP filed friend-of-the-court briefs in support of the Alliance for Open Society International (AOSI) and DKT International in two lawsuits brought by AOSI and DKT challenging the constitutionality of a U.S. government requirement that U.S. organizations receiving government funding for HIV/AIDS programs adopt a policy explicitly opposing prostitution. In our briefs in support of the Plaintiffs, WRP argued that this provision not only violates the First Amendment rights of the organizations but results in bad health policy in the fight against AIDS because it threatens to unravel relationships with sex workers that relief organizations have worked hard to build and that are necessary to reduce the spread of HIV/AIDS. According to AOSI, the pledge requirement "undermines efforts to provide lifesaving services and information to sex workers, who are at significant risk of infection and can also transmit HIV to others."

The district courts in both cases issued decisions for the Plaintiffs and the government appealed. In 2006, WRP, along with co-counsel, Covington & Burling, submitted friend-of-the-court briefs on behalf of more than 25 public health organizations to the Court of Appeals for the Second Circuit and the D.C. Circuit supporting the lower court decisions and again emphasizing the public health concerns of the policy.

LEFT *(left to right)*: **Plaintiffs in *Liu et al. v. King Chef, et al.*: Mei Ying Liu and Shu Fang Chen and Staff Attorney Claudia Flores**

BELOW *(top photo left to right)*: **Plaintiffs from *U.S. v. New York City Board of Education*: Charmaine DiDonato and Mary Kachadourian** *(middle photo left to right)*: **Irene Wolkiewicz, Adele McGreal and Marcia Jarrett** *(bottom photo left to right)*: **Janet Caldero and Dawn Ellis**

DIPLOMATIC IMMUNITY CAMPAIGN

The Women's Rights Project, in collaboration with Andolan (a South Asian domestic workers organization) and Global Rights (a human rights advocacy group) continued to develop a broad campaign opposing the exploitation of domestic workers employed by diplomats. Unlike other employers, diplomats are generally immune from ordinary civil, criminal, and administrative processes in the United States unless the sending countries waive the diplomats' immunity. As a result, certain high-level diplomats are sheltered from the legal repercussions of exploiting employees such as domestic workers. Yet domestic workers, including workers employed by diplomats, too often face a range of civil and human rights violations including the failure to pay minimum wage and/or overtime; physical, sexual or psychological abuse; denial of medical care; and in some cases forced labor and trafficking rising to the level of modern day slavery. In April 2006 WRP and Global Rights hosted a congressional briefing luncheon in Washington, D.C. The luncheon provided direct testimony from workers who were abused by their diplomatic employers, as well as from other advocates who are working to assist them. Also, in spring 2006 the United Nations Special Rapporteur on Trafficking published a communication with Kuwait addressing the exploitation and trafficking of Swarna Vishranthamma on whose behalf we had advocated. We will continue to use advocacy to raise awareness about this issue.

PETITION TO THE INTER-AMERICAN COMMISSION ON BEHALF OF UNDOCUMENTED WORKERS

There is no appeal in the U.S. justice system from an adverse Supreme Court ruling, but the Women's Rights Project took the unusual step – along with the ACLU Human Rights Program, Immigrant Rights Project and two other organizations – in November 2006 of petitioning an international human rights body on behalf of illegal immigrants jeopardized by unsafe and discriminatory working conditions.

Our petition, stemming from a 2002 Supreme Court ruling (*Hoffman Plastic Compounds, Inc. v. National Labor Relations Board)*, urged the Inter-American Commission on Human Rights to find the United States in violation of its universal human rights obligations for failing to protect millions of undocumented workers from exploitation and discrimination in the workplace. Acting on behalf of six illegal immigrant workers, including the widow of a Mexican killed at a Brooklyn demolition site, we argued that the United States has failed to protect the basic workplace rights guaranteed under the American Declaration of the Rights and Duties of Man. The Declaration, stating what members of the Organization of American States

***Lochren v. Suffolk* client Officer Sarah MacDermott was forced to take sick leave while pregnant even though she was ready and willing to work.**

Photo Courtesy of the New York Civil Liberties Union

must do to promote human rights within their countries, includes a requirement that the government not discriminate in terms of the rights afforded to individuals. This provision has been interpreted to prohibit a government from discriminating on the basis of immigration status in the employment rights it affords. In addition to the six million undocumented workers in the United States labor force, our petition was filed on behalf of several groups including the AFL-CIO, United Mine Workers, Inter-Faith Worker Justice, and Chinese Staff and Restaurant Worker Association.

In the petition, we and our partners, who also included the National Employment Law Project and the Transnational Legal Clinic at the University of Pennsylvania School of Law, argue that the government has a particular obligation to protect immigrant women, as a most vulnerable group, from discrimination in the workplace, regardless of their immigration status. Undocumented immigrants fill the most poorly paid and least desirable jobs in the United States, yet the government increasingly limits the safeguards available to this population, leaving them vulnerable to exploitation and workplace discrimination.

WOMEN IN NON-TRADITIONAL OCCUPATIONS

In 2006, WRP continued our work on behalf of women in high-paying, non-traditional jobs.

U.S. v. New York City Board of Education (E.D.N.Y.)

This case stems from a 1996 Justice Department suit against the New York City Board of Education for discrimination against women, African-Americans, Hispanics and Asians in failing to recruit them as custodians and offering civil service tests that discriminated against African-Americans and Hispanics. When the case was brought, New York City's school custodian workforce was over 90 percent white and over 98 percent male. Women seeking to enter the field were told, "It's a man's job" and "You won't have a snowball's chance in hell." In 1999, the parties reached a settlement providing, among other things, that several provisional female and minority custodians would receive permanent status and retroactive seniority to remedy the past discrimination. The city's agreement changed the face of the white, male custodian workforce. It created visible role models for women and people of color seeking to enter the field and encouraged the creation of new information networks that allowed women and people of color to learn about opportunities to become a custodian. But several white male custodians represented by the Center for Individual Rights later challenged that agreement, arguing that it discriminated against them, and the Justice Department (by then under the leadership of former Attorney General John Ashcroft) reneged on its promise to defend the agreement, in effect abandoning the 22 female and minority custodians. So in 2002, the ACLU Women's Rights Project, assisted by the law firm of Hughes, Hubbard and Reed, intervened to protect the settlement agreement — raising important questions about when and whether public employees can undertake affirmative action to remedy past discrimination in their workforce.

A 96-page decision was issued in 2006 in the complicated, ongoing dispute, which U.S. District Court Judge Frederic Block described as the "hardest case" he had ever worked on. The decision states that the permanent appointments and

retroactive seniority awarded to female custodians did not violate the Constitution or Title VII (though the women cannot rely on their retroactive seniority if layoffs ever occur in the custodial workforce). This was a clear victory for the women, as they kept almost everything they initially received in the settlement. But because race-based affirmative action is held to a higher Constitutional standard than gender-based affirmative action, the court said that men who didn't take one of the discriminatory examinations would keep their jobs but lose the seniority they received under the agreement. We have asked the court to reconsider the relief for the men, and we expect the case will be appealed.

Lochren v. County of Suffolk (E.D.N.Y.)

In June 2006, WRP won an important victory for women in law enforcement when a federal jury in Long Island, New York found that a police department's policy of barring pregnant officers from short-term limited duty assignments during their pregnancies discriminated against all women officers at the department. It was the culmination of a five-year lawsuit by the ACLU Women's Rights Project and the New York Civil Liberties Union, on behalf of six women police officers challenging the policy as discriminatory.

Women on the Suffolk County, N.Y. police force were entitled to the same rights as men, the county had said. But if they wanted to remain on patrol during their pregnancies, they faced special risks. The county required all officers to wear bullet-proof vests and gun belts while on patrol but acknowledged that it didn't provide vests or gun belts that properly fit during pregnancy, exposing officers to greater danger when they're pregnant than at any other time in their career.

After more than a week of testimony in which the plaintiffs recalled being forced to choose between using up their sick and vacation days and going without pay, or going out on patrol duty without vests and gun belts that fit, the jury awarded damages to all six of the plaintiffs.

The policy at issue, enacted by the department in 2000, disqualified officers with off-duty injuries, illnesses, or conditions, including pregnancy, from precinct desk and other non-patrol jobs. Yet, even after the policy change, the department continued to award limited duty jobs to male officers who had off-duty conditions, while denying them to pregnant officers. The plaintiffs' trial team presented the testimony of a statistician who showed the jury why the policy change had a disproportionably harmful effect on pregnant officers. The jury found that alternatives existed that could have been adopted to avoid the discriminatory effect. Namita Luthra, a senior staff attorney with the ACLU Women's Rights Project and co-counsel for the plaintiffs, was thrilled with the outcome, saying that "the jury's verdict acknowledges the hurdles faced by women in policing and vindicates the rights of women in traditionally male fields across the country." The plaintiffs were also gratified. One of them, Police Officer Kelly Mennella, said that she felt she was part of an historical event, one that will pave the way for younger generations of women officers. "We all have daughters," she said. "This is for them."

Shortly after the conclusion of trial, which we co-counseled with Outten & Golden, the department promulgated a new policy guaranteeing that any pregnant police officer who requests a limited duty position will be provided it for the duration of her pregnancy. This injunctive relief has been memorialized by the court.

OTHER OCCUPATIONS

In Washington State, the ACLU of Washington persuaded the State Department of Labor and Industries to change their discriminatory policy that denied work opportunities to female interpreters. The policy called for foreign-language interpreters of the same sex to translate during independent medical evaluations (IMEs). Most of the injured workers undergoing IMEs are male. Because there was no corresponding requirement that doctors performing the exams be of the same sex, the ACLU argued – and DLI agreed in May 2006 – that there was no reason to require same-sex translators.

Female ex-offenders may also find fewer barriers to employment in Washington state as a result of ACLU efforts, going to bat for an ex-offender who was denied a job at the State Department of Social and Health Services after a background check revealed a past conviction. ACLU of Washington staff

Once a discriminatory pay rate is set, it is likely to continue throughout her tenure with an employer, perhaps even determining her starting salary with a subsequent employer. The ruling ignored the realities of pay discrimination and the persistent wage gap in the United States today — women earning 70-80 cents to every dollar earned by men.

attorney Nancy Talner wrote a series of letters clarifying that the woman's Certificate of Rehabilitation removed the disqualification based on a prior conviction. Since DSHS background checks are conducted for an overwhelmingly female workforce, the ACLU's efforts on clarifying this policy are a step toward allowing women with previous convictions to find employment in their chosen profession.

The ACLU of Washington State is also working with the Northwest Women's Law Center on a case involving the failure of a crew boss to make accommodations for a woman to express her breast milk. The woman, who had been ordered to report to the work crew following a felony conviction, had produced a letter from her pediatrician in August 2006 advising that expressing her breast milk was medically necessary, and received a 60-day extension of the period to start her work crew service by the work crew administration. But when the extension expired and she was still lactating, the work crew staff balked at making further accommodations, even after seeing a second letter from the doctor. When the matter was heard by a judge, the sentence was modified to convert the work crew assignment to community service hours, a result that pleased the complainant.

WAGE DISCRIMINATION

Ledbetter v. Goodyear (U.S.)

WRP supported an Alabama woman's wage-discrimination complaint in a closely watched case currently before the Supreme Court, which could affect the outcome of thousands of disparate pay cases working their way through the Equal Employment Opportunity Commission and the courts. This case involves Lilly M. Ledbetter's attempt to win compensation for years of wage discrimination by Goodyear Tire & Rubber Co.

Ledbetter, who retired after 19 years in the company's Gadsden, Ala. plant, had no trouble demonstrating to a jury that she had suffered discrimination late in her career; at one point, she was making $3,727 a month – 15 percent less than the lowest paid male in her group at the plant, in violation of the anti-discrimination provisions of Title VII of the 1964 Civil Rights Act. But because the original decision to pay her less than the men had been made many years ago, the Court of Appeals held that it was too late for her to challenge it, even though that initial decision had led to lower salary adjustments throughout her career.

WRP joined a friend-of-the-court brief with 23 other civil rights organizations arguing that the lower court had ignored the cumulative effects of wage discrimination, which tends to begin early in a woman's career. Once a discriminatory pay rate is set, it is likely to continue throughout her tenure with an employer, perhaps even determining her starting salary with a subsequent employer. The ruling ignored the realities of pay discrimination and the persistent wage gap in the United States today – women earning 70-80 cents to every dollar earned by men. A decision is expected in 2007.

WHISTLE-BLOWERS

Burlington Northern & Santa Fe Railway Co. v. White (U.S.)

How much protection should whistleblowers who speak out

against workplace discrimination have? That was the question before the Supreme Court in the case of Sheila White, who was suspended for 37 days without pay and transferred to a different job after complaining about gender discrimination at Burlington Northern. WRP joined the National Women's Law Center and 28 other organizations in a friend-of-the-court brief that vigorously defended her, and the rights of others who summon the courage to speak out, persuading the court that White's rights had been violated.

Different appeals courts had come to different conclusions about what constitutes unlawful retaliation in such cases. The Sixth Circuit decided that White had been "materially" harmed by her employer's retaliation — but other courts have said actions by the employer could not be considered retaliation unless they involved an "ultimate employment decision" such as firing or failing to hire or promote.

Writing for the Supreme Court majority, Justice Stephen Breyer sided with White, finding that although she did receive back pay, she and her family "had to live for 37 days without income," not knowing "whether or when" she could return to work. As White, who sought medical treatment for depression during that period, told the jury, "That was the worst Christmas I had out of my life. No income, no money, and that made all of us feel bad." Any employee forced to choose "between retaining her job (and paycheck) and filing a discrimination complaint might well choose the former," Breyer wrote, persuaded that "an indefinite suspension without pay" must be seen as a deterrent.

"It has been wonderful having Kim Crenshaw work with WRP to further develop our efforts to link gender discrimination with the impact of racial injustice and poverty and to seek positive change on behalf of the most marginalized women. Her brilliant ideas — both in terms of substance and process — greatly contributed to our success." LENORA M. LAPIDUS, WRP DIRECTOR

KIMBERLÉ WILLIAMS CRENSHAW, IRA GLASSER RACIAL JUSTICE FELLOW

Kimberlé Williams Crenshaw has been an Ira Glasser Racial Justice Fellow at the ACLU since February 2005; working primarily at the National Office. Crenshaw is a professor of law at Columbia and UCLA Law Schools. The groundbreaking work for which she is best known explores the many ways in which various forms of discriminations can intersect, creating special vulnerabilities for some that are not readily identifiable within traditional equality law. She coined the term "intersectionality" to highlight the overlapping vulnerabilities that are at play in shaping the life chances of some of society's most vulnerable populations: women who are poor, of color, or who are undocumented. Intersectionality is particularly germane in the areas of employment discrimination, violence against women, and criminal justice, areas of particular interest to the Women's Rights Project.

Recently, Crenshaw has been active in reframing contemporary conceptions of discrimination and equal opportunity with a special focus on affirmative action, and in building productive exchanges between academic/research communities and frontline advocates. The Glasser Fellowship has given her the opportunity to pursue these interests with WRP and the ACLU Racial Justice Program. Two of her collaborations with WRP have been particularly productive. Crenshaw and WRP participated in a conference organized by Manhattan Borough President C. Virginia Fields that reviewed the consequences of New York City's policies mandating arrest under certain circumstances where domestic assaults have occurred. Asked to do the keynote for this conference, Crenshaw worked with WRP staff interns to compile existing information about the effects of these policies across various groups of women. Applying an intersectional lens to the question, it was apparent that such policies warranted a closer look in light of the unintended differential consequences for women of color and immigrant women. Some of the data suggest that these women were themselves more likely to be arrested under mandatory arrest laws, and that these laws did not contribute to their increased safety. WRP staff helped frame the dialogue around these important questions and facilitated discussion at the conference, held at Columbia Law School. The conference participants called for better access to information from police departments in order to accurately assess the impact of these laws on all populations.

A collaboration with Crenshaw and Eve Ensler resulted in an important WRP event, "Any One of Us: Words from Prison." This event, co-sponsored by WRP and the NYCLU, was performed at Lincoln Center in New York City in June. Crenshaw and Ensler had sought other collaborative opportunities since Crenshaw wrote and performed a piece in the Harlem, New York production of "The Vagina Monologues," which was featured in the documentary, *Until The Violence Stops*. That opportunity came with the creation of V-Day's two-week festival focusing on violence against women. Violence is an often-underappreciated risk factor leading to the incarceration of women; it remains one of the reasons that women are the fastest growing segment of the prison population. The goal of the event was to bring much-needed attention to the connection between violence against women and incarceration, and to highlight the need for both those interested in working against violence and those advocat-

ing for alternatives to incarceration to focus on these intersections in their work. WRP's expertise in domestic violence and in women's incarceration placed it in a unique position to provide a series of snapshots revealing how women often become entrapped by a variety of factors which, left unchecked, could lead to their incarceration. In addition to revealing how 'any one of us' could be caught up in this net of violence, WRP offered a range of reforms and actions that concerned individuals could engage in to make a difference.

Crenshaw also sought opportunities for her Columbia students to benefit from her association with the ACLU through her course on Social Justice Litigation. WRP along with other ACLU projects provided externship opportunities for students in Crenshaw's seminar. The seminar was designed as a development opportunity for students who are interested in pursuing careers advancing civil rights and civil liberties. WRP provided exciting opportunities for Crenshaw's students to contribute to a range of WRP's projects while simultaneously exploring the broader challenges and opportunities facing social justice advocates in class.

Although Crenshaw concludes the Glasser Fellowship in February, she looks forward to building on the opportunities that the Fellowship has provided and to continuing her close working relationship with the Women's Rights Project.

Petitioner Jessica Gonzales in *Gonzales v. United States* with a portrait of her daughters

VIOLENCE AGAINST WOMEN

Violence against women is epidemic, affecting some 4 million women a year across racial, ethnic, sexual orientation and socioeconomic lines with serious, often life-threatening injuries. Institutional sex discrimination tends to view domestic violence as a woman's problem rather than her abuser's. Battered women have been evicted from their homes, lost their jobs, and had their children removed because of violence in the home. Many have failed to get help when they sought assistance from police. Low-income women, women of color and immigrant women are particularly vulnerable to violence because of financial and cultural restraints that may make it harder for them to leave abusive relationships.

DOMESTIC VIOLENCE AND FAIR TRIALS

Davis v. Washington (U.S.), Hammon v. Indiana (U.S.)

One of the most perplexing problems facing judges in domestic violence cases is whether to admit out-of-court statements by victims who are afraid or unwilling to testify in court – for example, statements they may have given to police or to a 911 operator. While excluding such evidence may mean that prosecutors are unable to win convictions in some domestic violence cases, allowing the out-of-court statements into evidence when a criminal defendant has had no opportunity to cross-examine his or her accuser threatens the constitutional right to a fair trial. Moreover, because abusers often falsely accuse their victims of perpetrating domestic violence, many battered women find themselves criminal defendants, in need of the fair trial the Constitution guarantees those who have been accused of crimes.

In 2006, the Supreme Court considered a pair of cases challenging the use of such out-of-court statements in domestic violence cases. We filed a friend-of-the-court brief arguing that courts must respect criminal defendants' Sixth Amendment rights to cross-examine their accusers and described steps communities could take to make it easier for victims of domestic violence to testify in court. The brief urged the Court to adopt an objective standard under which a statement would be inadmissible if a reasonable person would understand that the statement could be used for criminal investigation or prosecution.

In its decision, the Supreme Court drew a distinction between statements a victim of domestic violence may make to a 911 operator seeking immediate assistance and statements made to a police officer after the fact, finding that the former could be admitted in court even if the defendant does not have the opportunity to cross-examine the victim in court. The court concluded that when an individual was making a statement to a 911 operator, describing ongoing events for the purpose of seeking emergency assistance, she was not making a "testimonial" statement, and thus the statement could be introduced in court even if the defendant had never had the opportunity to cross-examine the alleged victim. On the other hand, a statement to a police officer, made in a non-emergency situation, is just such a testimonial statement, the court ruled, and thus the constitutional right of the defendant to cross-examine his or her accuser applies.

HOUSING DISCRIMINATION AGAINST VICTIMS OF DOMESTIC VIOLENCE

Strange as it may seem, landlords often react to domestic violence by evicting the victim of the violence. WRP has long been a leader in the fight against housing discrimination against battered women. Too many of our clients have lost public or subsidized housing as the result of reporting domestic abuse to the police, seeking civil protection orders against their abusers, or taking other steps to end the violence in their lives. This is not only unjust, but also sends the pernicious message that battered women must keep abuse secret or lose their homes.

(left to right): **WRP Deputy Director Emily Martin and co-counsel Scott Pashman of Cooley Godward Kronish LLP reading over Kathleen L.'s settlement agreement**

Survivors of domestic violence or stalking who live in public or subsidized "Section 8" housing gained important new protections from this kind of discrimination when the Violence Against Women Act of 2005 (VAWA) became law on Jan. 5, 2006. New housing provisions in VAWA, which were proposed and in some instances drafted by WRP, change how public and subsidized housing will be operated throughout the country. The new provisions prohibit public housing authorities (PHAs) and Section 8 housing providers from denying housing to survivors of domestic violence because of the violence against them; prohibit PHAs and Section 8 housing providers from evicting victims of domestic violence or stalking based on the crimes against them unless the housing provider can demonstrate that the victim's continued presence in the housing poses an actual and imminent threat to other tenants or staff; and authorizes funding for demonstration grants to PHAs to address domestic violence. In 2006, WRP worked in coalition with housing providers and domestic violence advocates in urging the U.S. Department of Housing and Urban Development (HUD) to ensure that the new provisions will be implemented effectively and properly.

Working with a coalition of advocacy groups, WRP also persuaded officials in Lansing, Mich. to adopt new housing policies that incorporate VAWA's protections and go beyond them. The public housing authority agreed to adopt affirmative measures to enhance the safety, and prevent evictions, of victims of domestic violence. We are working on similar efforts in other jurisdictions.

In 2006, WRP also continued to offer trainings on these issues for housing attorneys and domestic violence advocates across the country in an effort to spread awareness of the legal tools and arguments that one can use to fight back, if a housing provider discriminates against an individual because she has been a victim of domestic violence.

EMPLOYMENT DISCRIMINATION AGAINST VICTIMS OF DOMESTIC VIOLENCE

Kathleen L. v. New York City Dept. of Ed. (N.Y. Sup. Ct.)

Kathleen L. had worked in the New York City public schools for many years. After she was assaulted by her husband, she obtained a protective order and initiated divorce proceedings. As a result of the assault and the court proceedings, she took several days off work. When her employer reprimanded her for excessive absences, she explained that she was experiencing domestic violence and that this was the reason she needed time off. Shortly after this conversation, she was fired. The same day, another woman at the school was fired under similar circumstances. But the New York City Human Rights law prohibits employment discrimination against victims of domestic violence and sexual assault. It also requires employers to make reasonable accommodations – such as allowing time off from work or schedule shifts – to employees who are experiencing this form of violence.

In early 2006, WRP took the New York City Department of Education to court for its harsh treatment of Kathleen L. and won compensation for Kathleen L. and changes in the Department of Education policy.

(left to right): **Staff Attorney/WRP Fellow Araceli Martínez-Olguín and Danielle Simmonds, the plaintiff in *Simmonds v. NYC Dept. of Correction***

The suit was settled in November. As a result of the settlement agreement, Kathleen L's termination was voided, she received back pay from the day she was fired through the day of settlement, and she received additional compensation. Further, as part of the settlement agreement, the New York City Department of Education agreed to amend its Equal Employment Opportunity policy to include the victims of domestic violence, sexual assault, and stalking as protected classes, and to provide that the Department of Education will provide such individuals with reasonable accommodations. The Department of Education also agreed to publicize the change in policy to all of its school principals, and to all of its employees. WRP is confident that these policy changes will aid other Department of Education employees in receiving accommodations to which they are entitled.

Simmonds v. NYC Dept. of Correction (S.D.N.Y.)

WRP filed suit on behalf of Danielle Simmonds, a female correction officer who reported sexual assault by a co-worker to the New York City Department of Correction, which failed to investigate or to take disciplinary action on her behalf. When Ms. Simmonds asked why the department had failed to follow its own procedures for dealing with her assault, the DOC retaliated against her. It failed to provide her with information about her assailant's work schedule and his access to fire arms, so she could take steps to protect herself, or with reasonable accommodations including time off for medical treatment.

WRP filed a complaint against the DOC with the U.S. Equal Employment Opportunity Commission in April 2006, and in July, filed suit in federal district court against the DOC and Sean Hall, Ms. Simmonds' assailant.

The lawsuit alleges that the DOC discriminated against Ms. Simmonds on the basis of her sex and on the basis of her status as a victim of sexual assault. It also alleges that the DOC unlawfully retaliated against Ms. Simmonds when she complained of this discrimination. We are seeking a change in policy including accommodations for victims of domestic violence and sexual assault and damages.

STATE LEGISLATIVE PROTECTION FOR VICTIMS

In California, the ACLU and six other groups advocated for a bill seeking employment protection for survivors of domestic violence, sexual assault and stalking, asserting that domestic and sexual violence are workplace issues. Because severe economic barriers often prevent women from leaving abusive situations, the ability to keep a job is vital to independence and safety. When victims face the additional obstacle of employment discrimination based on their status as a victim, it can seriously hinder their efforts to survive. Studies show that up to one-half of domestic violence victims experience job loss. The California legislation would put employers on notice that it is against state policy to discharge, harass or retaliate against a victim of domestic violence, sexual assault or stalking. The ACLU's coalition partners include the California Partnership to End Domestic Violence, California Coalition Against Sexual Assault, California Commission on the Status of Women, California National Organization for Women, and the Legal Aid Society - Employment Law Center.

(left to right): **WRP Director Lenora Lapidus with ACLU delegation to Geneva for UN Human Rights Committee review of US compliance with ICCPR: ACLU of Michigan Executive Director Kary Moss, ACLU of Mississippi Executive Director Nsombi Lambright, ACLU Associate Legal Director Ann Beeson, Lapidus, Staff Attorney Jamil Dakwar, and Staff Attorney Chandra Bhatnagar**

GOVERNMENTAL RESPONSE TO DOMESTIC VIOLENCE

Gonzales v. United States, State of Colorado (Inter-Am. C.H.R.)

The Women's Rights Project has taken one battered women's case to the international arena to highlight the U.S. government's unwillingness to hold police accountable when they fail to protect victims of domestic violence. In June 2005, the Supreme Court ruled that victims of domestic violence do not have a due-process right to police enforcement of orders of protection against their abusive partners even when state law requires such enforcement. This left Jessica Gonzales, whose three daughters were kidnapped and murdered by her estranged husband after police failed to act as required by law, without a constitutional remedy.

Gonzales and her husband were divorcing, and the court had issued a restraining order requiring him to stay away from her and their children, except for one weekly prearranged visit. One afternoon the children disappeared from the yard and, suspecting her estranged husband, Gonzales contacted the police and asked them to enforce her protective order. In Colorado, arrest is mandatory when there is probable cause to believe that a protective order has been violated. This mandatory arrest law, like others across the country, was enacted to remove police discretion about whether and how to enforce protective orders in cases involving domestic violence.

But the police refused to act, ignoring the state law. They advised Gonzales to "give it a few hours, and see if he comes back." She eventually reached her ex-husband on his cell phone and learned he had taken their daughters to an amusement park in another town. She called the police with the information, but again was told to wait. At 3:30 in the morning, he drove to the police station, opened fire on the station and was killed in the melee. The police later found the bodies of the girls, whom he had murdered earlier that evening, in the back of his truck.

In December 2005, we broke new ground in the handling of such cases by petitioning the Inter-American Commission on Human Rights (IACHR) to review the case. Our petition describes a widespread national problem of police failure to enforce legal protections for victims of domestic violence, and urges the IACHR to conclude that the U.S. failed to protect Ms. Gonzales's rights under the American Declaration of the Rights and Duties of Man. The U.S. responded to the petition in September, and we filed a response. We anticipate a hearing before the IACHR in 2007.

OTHER ADVOCACY

The Women's Rights Project also called attention to the human rights violations suffered by Jessica Gonzales through two United Nations mechanisms. First, the situation of police failure to take domestic violence seriously and the courts' failure to provide a remedy were addressed in the ACLU's shadow report to the United Nations Human Rights Committee as part of its review of U.S. compliance with the International Covenant on Civil and Political Rights (ICCPR). When the Committee met in Geneva, Switzerland in July to review U.S. compliance,

Jessica Gonzales and WRP Director Lenora Lapidus were part of the ACLU delegation that attended the hearings and testified before the Committee. Gonzales appeared on a panel of Victims of Human Rights Abuses and told her story.

Second, while in Geneva, Lapidus and Gonzales also met with staff of the United Nations Special Rapporteur on Violence Against Women, who agreed to take up Gonzales' case and present it to the United States for response. We expect the confidential communication to be included in the Special Rapporteur's report to the United Nations High Commissioner on Human Rights in the spring of 2007.

In March 2006, WRP also co-sponsored a conference, *Some Are Guilty; All Are Accountable,* at Denver Law School. The conference brought domestic violence advocates and academics together from around the country to talk about the issue of police accountability and potential legal and advocacy strategies in response to the Supreme Court decision in *Castle Rock v. Gonzales*.

Moore v. Green (Ill.)

The ACLU of Illinois Reproductive Rights Project's dedication to protecting women's health and safety extends beyond issues related to abortion rights. In 2006, it worked with the Illinois Coalition Against Domestic Violence and other groups to protect victims of domestic violence after a Chicago woman, Ronyale White, was brutally murdered by her husband; Chicago police had failed to enforce her protective order against him. The ACLU pointed out in its friend-of-the-court brief that the Illinois Domestic Violence Act was designed to cure the historic indifference of the legal system to domestic violence. The Illinois Supreme Court ruled unanimously that law enforcement officers who wantonly and willfully fail to enforce protective orders issued under the act can be held liable for their actions. Protections afforded by the act are paramount. What this means is that when a woman calls 911 and says she has a protective order and knows that her abuser, who is in her house, has a gun, she can expect the police to come to her aid.

INSTITUTIONAL NEGLIGENCE

Simpson v. University of Colorado (10th Cir.)

When over a period of several years, the University of Colorado failed to respond meaningfully to repeated complaints of sexual assault and harassment by football players and recruits, the university maintained an environment that was sexually hostile to women, according to a friend-of-the court brief filed in August 2006 by the ACLU on behalf of Lisa Simpson and Anne Gilmore. Simpson and Gilmore were sexually assaulted by football players and recruits during the football recruiting season while they were students at the school. These assaults followed years of reports of similar behavior in the football program, including sexual assaults of female student trainers and women attending football recruiting parties, and sexual harassment of student trainers and a female football player. A tradition of "showing recruits a good time" by providing alcohol and access to women led to repeated incidents of sexual assault and harassment during recruiting season. Though these problems had been repeatedly reported to the university, it instituted no meaningful reforms.

The women sued the university for sexual harassment, but lost in the trial court. The court concluded that the university was not on notice of a sexually hostile environment, because the incidents of assault that had been reported to it differed in some way from the assaults of the plaintiffs. For instance, one of the previous assaults was of a high school student, rather than a university student, while the previous sexual assault of a female football player was held irrelevant because the plaintiffs were not football players. The court also held that the policies that the university had adopted were a sufficient response to the problem, even though the university was on notice that the pattern of assaults continued after the policies were adopted.

On appeal, the ACLU Women's Rights Project and the ACLU Racial Justice Program drafted a friend-of-the-court brief, joined by the ACLU of Colorado, the NAACP Legal Defense and Education Fund and many other civil rights and women's rights organizations, arguing that the university was liable under Title IX because it was on notice of a hostile environ-

ment and demonstrated deliberate indifference to it. The brief pointed out that the trial court ruling contravenes established civil rights law, which recognizes that schools deny women and minorities equal educational opportunities when they show deliberate indifference to known sexual and racial harassment. If affirmed, the trial court's decision could insulate schools from liability for peer-on-peer harassment and assaults in a wide range of cases, including when harassment is based on race or national origin. The case is currently before the Tenth Circuit Court of Appeals, and a decision is expected in 2007.

Carswell v. Ohio (Ohio)

WRP joined with the ACLU of Ohio and the ACLU Lesbian, Gay, Bisexual, Transgender Project in a friend-of-the-court brief to the Supreme Court of Ohio, which is considering whether the ban on marriage for gay couples recently adopted as an amendment to Ohio's constitution prohibits prosecuting domestic violence in cases where the abuser is not married to his victim. Ohio's domestic violence law defines those subject to its protections as "spouses or people living as spouses." However, the amendment banning marriage for gay couples in Ohio also broadly prohibits "recognizing a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance or effect of marriage." Several men prosecuted under Ohio's domestic violence law for assaulting women to whom they were not married have argued that the domestic violence statute's protection for individuals "living as spouses" runs afoul of this provision of Ohio's constitution and that the state is powerless to prosecute domestic violence between unmarried couples, both straight and gay. A few lower courts have agreed. These rulings endanger those victims of domestic violence who are not married to their abusers. In our friend-of-the-court brief, the ACLU argued that the protections granted to unmarried couples by the domestic violence law in no way created a legal status for those couples approximating the significance or effect of marriage. A decision is expected in 2007.

Eighth-grader Michele Selden, plaintiff in *Selden v. Livingston Parish School Board*

EDUCATION

ADVANCING EQUAL EDUCATIONAL OPPORTUNITY

Sex segregation in public schools both violates the Constitution and fails to advance educational interests. Studies indicate that factors like small class sizes and parental involvement are what improve student performance, and that sex segregation is a potentially expensive distraction from investing in these methods that have been shown to work. Sex segregation also fails to prepare students to succeed in a co-educational world. Thus WRP was gravely disappointed by new federal Title IX regulations issued by the U.S. Department of Education in October 2006, which invite schools to establish sex-segregated classes and activities based on the flimsiest of theories.

Prior to October 2006, federal regulations generally prohibited single-sex classes in co-educational schools receiving public funds. Proponents of sex segregation, who successfully pushed for the revision of Title IX rules, have gained strength in recent years, and today hundreds of schools and school districts separate boys and girls for some or all of their classes. More and more school districts have become interested in segregating students by sex, in part based on popular junk science theories of gender differences.

Influential advocates of sex-segregated education argue, for instance, that boys don't hear as well as girls, so teachers must yell when talking to boys, but must have a quiet classroom for girls to succeed. According to these advocates, teachers should smile at girls and look them in the eye, but must not look boys directly in the eye and should not smile, as boys are biologically programmed to understand smiling and eye contact as a sign of weakness. According to today's advocates for single-sex education, boys are better than girls in math because their bodies receive daily surges of testosterone, which increases their spatial skills; girls, on the other hand experience an increase in their spatial skills only during the few days in their menstrual cycle when they have this estrogen surge. The new sex segregationists argue that "anomalous males"—boys who like to read, who do not enjoy competitive sports or rough-and-tumble play, and who do not have a lot of close male friends—should be firmly disciplined, should spend lots of time with "normal males," and should be made to play competitive sports. These single-sex advocates are successfully seeking out opportunities to train educators across the country in school districts implementing sex segregation in these archaic, stereotyped theories dressed up as science. Unfortunately, the new Title IX regulations mean that more and more schools will experiment with sex segregation based on these disturbing and discriminatory theories.

In the coming months, WRP will continue to work to educate the public about sex segregation and its proponents. We will work with affiliates to respond to these programs around the country, both through community education and advocacy and, where necessary, through litigation.

Selden v. Livingston Parish School Board (D. La)

Some cases take years to resolve; not so for a family's complaint about an attempt to establish sex-segregated public schools in Denham Springs, Louisiana. This regressive plan was scrapped the day after we filed suit to stop it. In May of 2006, the principal of Southside Junior High School announced to parents that during the next school year, all academic classes at the school would be segregated by sex: boys would be in one class and girls in another. When schools reopened in the fall, officials said, boys and girls would be taught separately based on theories that claimed that they learn differently. Girls would receive more "hands-on" learning in math, and also would be taught "good character." Boys would be taught about "heroic" behavior and what it means to

Darren and Rhonda had both served in the Armed Forces, and had worked together as volunteer firefighters. Their experience had convinced them that men and women can and should work together and learn from each other.

be a man, and given ample opportunity to "de-stress" and move around, according to the principal. The principal also announced that no requests for transfers to other schools would be considered: in other words, single-sex education would be mandatory for Southside Junior High School students. Similar plans were put into place at another junior high school in the district at the same time.

Eighth-grader Michele Selden and her parents, Darren and Rhonda Selden, were deeply concerned about this plan. Darren and Rhonda had both served in the Armed Forces, and had worked together as volunteer firefighters. Their experience had convinced them that men and women can and should work together and learn from each other. They had not raised Michele to conform to stereotypical gender roles. Michele, a junior firefighter and scuba diver, did not like the idea of being taught in segregated classrooms. The family believed that this plan was a step backwards, and the wrong answer for Michele.

WRP and the ACLU of Louisiana asked the school district to abandon its plan, pointing out that mandatory sex segregation in public schools is illegal. But the school district refused. So in August, the week before school opened, we brought a lawsuit seeking emergency relief. We argued that the plan violated the Constitution and Title IX. The day after we filed, the district agreed not to implement the plan in the coming school year.

SEX-SEGREGATED SCHOOLS IN MICHIGAN

In June, WRP worked with the Michigan ACLU to fight a state legislative effort to repeal state laws prohibiting single-sex schools and classes, testifying before a state legislative committee on the issue. While, ultimately, the laws were repealed, the ACLU successfully persuaded the lawmakers to mandate that an equal co-educational opportunity be provided when any single-sex class or school was implemented and to make clear that participation in a sex-segregated class or school must be wholly voluntary. We are continuing to press for accountability measures that would require schools to articulate the goals that they sought to achieve through sex segregation and that would require the restoration of co-education should sex segregation fail to achieve these goals or result in unequal educational opportunities.

SEX-SEGREGATED CLASSES IN KENTUCKY

The ACLU of Kentucky and the Women's Rights Project are also working to educate the public on the problems of single-sex education in Kentucky, after failing to prevent its introduction in Kentucky's largest school system, in Louisville. We sent a letter to Jefferson County Schools Superintendent Stephen Daeschner in 2005 arguing that the school district's plan to turn the Southern Leadership Academy into an all-boys school and Iroquois Middle into an all-girls school risked reinforcing sexual stereotypes that are damaging to children's education, and that such placements are problematic under the Equal Protection Clause of the Constitution. The school district decided to abandon its plan; however, in April 2006 the ACLU of Kentucky learned that both schools were already conducting single-sex classes. We are now pursuing advocacy to address this problem.

Under the clarification, schools can claim they are providing enough opportunities for women to play sports based solely on an email survey asking students about their interest in particular sports.

DEFENDING EQUAL ATHLETIC OPPORTUNITY

WRP is a member of the Save Title IX campaign, developed by the National Women's Law Center following the U.S. Department of Education's issuance of a "clarification" to long-standing rules regarding equal opportunity in athletics under Title IX. This clarification created a loophole through which schools can evade their obligation to provide women and girls with equal opportunities in sports. One way that schools have been able to show that they are providing equal athletic opportunity for women is to show that they are fully accommodating female students' interests in athletics. Under the clarification, schools can claim they are providing enough opportunities for women to play sports based solely on an email survey asking students about their interest in particular sports. Moreover, schools are permitted to treat a lack of student response to this email survey as evidence of a lack of student interest in athletics. In other words, students' failure to respond to a mass email from the college administration could be used to justify limiting women's athletics. We are working with other members of the coalition to engage students on college campuses in an effort to learn whether their schools are meeting their Title IX obligations and to push for meaningful monitoring of equal athletic opportunities.

Manzur v. Missouri State University (W.D. Mo.)

Missouri State University and the American Civil Liberties Union in September settled a lawsuit filed on behalf of four female tennis players whose team was eliminated for the 2006-07 school year in a budget-cutting move. The school agreed to pay Maja Stanojevic, Paty Manzur, Eleonora Kuruc and Monika Musilova $1,000, affirming the importance of Title IX, the 1972 law that prohibits sex discrimination in any educational program that receives federal funds. Most schools meet Title IX requirements by demonstrating that the percentages of male and female athletes are substantially proportionate with the percentages of male and female students enrolled.

SEX EDUCATION

Our vigilant Rhode Island affiliate persuaded the state to discontinue a flawed sex-education curriculum in 2006 that advised girls to "wear modest clothing that doesn't invite lustful thoughts." The Rhode Island ACLU complained that the federally funded program, promoting abstinence until marriage, promoted sexist stereotypes and endorsed particular religious views. The DOE agreed that the curriculum, which described men as "strong" and "real woman" as "caring," was "not consistent with Rhode Island Health Education Standards."

(left to right): **Plaintiffs in *Loving v. Blackjack*: Olivia Shelltrack, Fondray Loving and their children**

PUBLIC ACCOMMODATIONS

Corcoran v. German Society Frohsinn (Conn. Ct. App.)

WRP and the American Civil Liberties Union of Connecticut represent Sam Corcoran, a small business owner, in her attempt to gain admission to a club that refused to give her an application because she is a woman. Ms. Corcoran, a regular visitor to the bar operated by the German Society Frohsinn in Mystic, Connecticut, was eager to explore the networking possibilities available through membership in the 200-member club. The organization had not rejected a male applicant in memory (and had long ago abandoned any requirement of German heritage). Open to any interested male, it is not the sort of organization traditionally recognized as private and exempt from the nondiscrimination requirements of public accommodation laws. But when the case went to trial in 2005, the state court ruled that the club was exempt from the state's public accommodation laws. The court primarily relied on the formal application procedures the club required for membership to conclude that the club was not open to the public, even though the application procedures were not always adhered to and in any case did not actually act to screen out any applicants. The ACLU appealed and the appellate court heard arguments in the fall of 2006. A decision is expected soon.

DEFINITION OF FAMILY

Loving v. Blackjack (E.D. Mo.)

Fondray Loving and Olivia Shelltrack had a rude shock when, after buying a five-bedroom house in Blackjack, Mo., they were unable to obtain the necessary occupancy permit from the city of Blackjack. Officials said the house in question was a single-family house in a single-family area, and that Loving, Shelltrack and their three children did not meet Blackjack's definition of a "family." The problem? The parents aren't married, though they have two children in common, and have raised Shelltrack's third child from a previous relationship together for over a decade. Blackjack's zoning ordinance defined a family as "an individual or two or more persons related by blood, marriage or adoption ... living together as a single housekeeping unit in a dwelling." Blackjack interpreted this to mean that all members of a household had to be related to all other members by blood, marriage or adoption. Because Loving and Shelltrack were unmarried, their household did not qualify; according to Blackjack's attorneys, their family was merely a "simulated" family. Three unrelated people could have obtained the necessary permit, but more than three constituted a crowd, not a family, under the ordinance.

It wasn't the first time an unmarried couple had run into trouble in Blackjack. The ACLU of Eastern Missouri had previously counseled an unmarried couple who had been turned away from a single-family neighborhood after having triplets, based on the same ordinance; for unmarried couples, the mayor had thundered, having children is "morally wrong." In that earlier case, the couple ultimately decided to marry rather than fight city hall. But this year, when the city refused to let Loving and Shelltrack occupy their new home, they stood firm — and asked the ACLU for help.

WRP and the ACLU of Eastern Missouri filed suit in August 2006, arguing that the city's ordinance violated the family's constitutional rights under the due process clause, and equal protection clause of the state and federal constitutions and the Fair Housing Act, which prohibits discrimination on the basis of family status. Blackjack changed its ordinance after the ACLU got involved. The change, which defined households in which unmarried adults have at least one child in common as a family, allowed Loving and Shelltrack to obtain an occupancy permit. We subsequently settled the case.

(left to right): **Plaintiff and attorneys from *Hobbs v. Smith, et al.*: ACLU of North Carolina Executive Director Jennifer Rudinger, co-counsel Peter Isajiw of Cadwalader, Wickersham and Taft, LLP, Debora Hobbs, Jeffery Miller, and ACLU of North Carolina Staff Attorney Katherine Lewis Parker**

Hobbs v. Smith, et al. (N.C. Super. Ct.)

In February 2004, shortly after starting her job as a dispatcher for the Pender County, N.C., Sheriff's Office, Debora Hobbs was advised by her employer that because she was living with her unmarried male partner in violation of North Carolina General Statute §14-184, she would be required to marry her partner, move out of the house they shared together, or leave her job. That statute states, in relevant part:

If any man and woman, not being married to each other, shall lewdly and lasciviously associate, bed and cohabit together, they shall be guilty of a Class 2 misdemeanor.

The ACLU of North Carolina represented Ms. Hobbs in challenging the law and argued that it was unconstitutional both on its face and as applied in this case. In August 2006, the Superior Court ruled in favor of the ACLU-NC, citing the 2003 Supreme Court decision, *Lawrence v. Texas*, and holding that the cohabitation statute violated Hobbs' constitutional right to liberty. The Court also issued an injunction prohibiting any of the defendants – including anyone who works for or with the State of North Carolina – from enforcing the statute against anyone in the future. The State has announced that it will not appeal the ruling.

Buday v. State of California Dept. of Health & Svcs. (C.D. Cal.)

Diana Bijon knew she was taking a chance when she asked her fiancé, Michael Buday, to take her last name when they married last year. It turns out that was the easy part. When they tried to have Mr. Buday's name officially changed, they were rebuffed by county clerks on two separate occasions. As it currently stands, men must pay court fees of more than $300 and advertise the name change in a newspaper; women who choose to take their husband's name when they wed pay only a $50-$80 marriage license fee. In a clear case of sex discrimination, the ACLU of Southern California along with the law firm Milbank, Tweed, Hadley & McCloy, filed suit to ask a federal court to bring marriage in California up to date by making the rules for a husband who wants to take his wife's last name the same as for a wife taking her husband's.

Mr. Buday, 29, and Ms. Bijon, 28, made the decision to recognize her father's importance in his life and believe that they should be able to make their own decision about which family name to carry. The couple also hopes to extend the Bijon family name into another generation as an expression of her French-American ancestry. Currently only six states – Georgia, Hawaii, Iowa, Massachusetts, New York, and North Dakota – recognize a statutory right for men to take their wives' last name.

(left to right): **The cast of "Any One of Us" along with Glasser Fellow Kimberlé Crenshaw, WRP Director Lenora Lapidus, ACLU Executive Director Anthony Romero and NYCLU Executive Director Donna Lieberman**

CRIMINAL AND JUVENILE JUSTICE REFORM

In 2006, the ACLU Women's Rights Project continued to work to improve the conditions of confinement for women in prison and girls in juvenile facilities through advocacy, public education, and litigation. Building on our work around women and the drug war and publication of a groundbreaking report, *Caught in the Net: The Impact of Drug Policies on Women and Families*, WRP launched several important initiatives in 2006 including a live performance of staged readings at Lincoln Center in New York, and visits with incarcerated women and prison staff. We also published a report in conjunction with Human Rights Watch on the conditions of confinement of girls in New York juvenile prisons.

In June, WRP collaborated with the New York Civil Liberties Union and with V-Day, the global movement to end violence against women founded by playwright Eve Ensler, to spotlight the connections between violence against women and incarceration, with a riveting performance at Lincoln Center in New York City. The performance, entitled, "Any One of Us: Words from Prison," used staged readings of stories by incarcerated women and featured performers, Rosario Dawson, Rosie O'Donnell, Phylicia Rashad and several formerly incarcerated women.

"Women in prison experience violence before, during and after incarceration," said Lenora Lapidus, Director of the ACLU Women's Rights Project. "They are subjected to domestic violence, abuse by prison guards, separation from their families and denial of government benefits, including welfare, public housing and educational loans."

A major goal of the evening was to promote action and further involvement by audience members, through educational materials and fact sheets prepared by WRP and distributed at the event. In continuing our collaboration with V-DAY, we hope to replicate this production in other parts of the country and to work with ACLU state affiliates to stage similar performances in their communities.

WOMEN'S PRISONS VISITATION AND DOCUMENTATION PROGRAM

In July 2006, WRP staff visited Bayview Correctional Facility for Women, a New York State facility, as part of a statewide program coordinated by The Correctional Association of New York. WRP's Namita Luthra and her team met with prison administrators, toured the facility, and conducted one-on-one interviews with women prisoners. The information gathered helps to identify the most serious problems in the facilities, improve conditions, and advocate for better services and treatment for women prisoners.

PROSECUTION OF PREGNANT WOMEN FOR DRUG USE

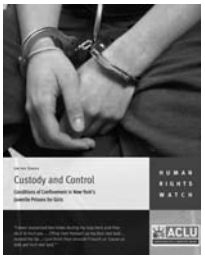
Cruz v. State of Maryland (Md.)

One of the most insidious forms of discrimination against women is the misuse of laws and official policies to victimize women who violate societal norms — by for example becoming single mothers while still in their teens, or using drugs. In Maryland, prosecutors abused their authority by attempting to use Maryland's reckless endangerment law to punish pregnant women with past histories of drug use.

They may no longer use that law to prosecute women who give birth to babies exposed to illegal drugs, the state's high court ruled in August, overturning the convictions of Eastern Shore mother Kelly Cruz. Ruling on an appeal by the ACLU of Maryland, the State Court of Appeals found that the state did not intend its law prohibiting the reckless endangerment of children to apply to women in relationship to their own pregnancies. If it did, the statute "could well be construed to include not just the ingestion of unlawful substances but a whole host of intentional and conceivably reckless activity that could not possibly have been within the contemplation

FAR RIGHT **Staff Attorney/Neier Fellow Mie Lewis and Mishi Faruqee, Director of the Juvenile Justice Project at the Correctional Association of New York**

RIGHT ***Custody and Control***



of the Legislature – everything from becoming (or remaining) pregnant with knowledge that the child likely will have a genetic disorder that may cause serious disability or death, to the continued use of legal drugs ... to not maintaining a proper and sufficient diet, to failing to wear a seat belt while driving.. to exercising too much or too little, indeed to engaging in virtually any injury-prone activity that, should an injury occur, might reasonably be expected to endanger the life or safety of the child." Advocates argued that drug-using pregnant women need treatment, not punishment.

State of New Hampshire v. Fernandez (H.C.S.C.)

The victory in *Cruz* has proved significant in other states where women have been wrongfully prosecuted for "child endangerment." For example, when ACLU of New Hampshire Staff Attorney Barbara Keshen heard about how the Hillsborough County Attorney was prosecuting Griseliz Fernandez with reckless conduct and endangering the welfare of her child, she contacted Ms. Fernandez's attorney to offer assistance in the case and ultimately took over the case entirely. Ms. Fernandez's daughter, who is almost 2, was born with traces of cocaine in her blood, prompting prosecutors to bring charges against Ms. Fernandez, the first prosecution of its kind in New Hampshire. Relying in part on the case in Maryland, the ACLU of New Hampshire was able to persuade the county that it would not be able to substantiate a good-faith basis for this prosecution and the county dropped the charges against Ms. Fernandez.

GIRLS IN THE JUVENILE JUSTICE SYSTEM

Girls make up a growing proportion of those sent to New York's juvenile prisons where they are routinely abused and neglected by state authorities, according to a numbing report released in September 2006 by WRP and Human Rights Watch. The report, *Custody and Control: Conditions of Confinement in New York's Juvenile Prisons for Girls* (**www.aclu.org/custodyandcontrol**) centers on two facilities, known as Lansing and Tryon, operated by the New York Office of Children and Family Services (OCFS). Mie Lewis, an Aryeh Neier fellow at the ACLU and Human Rights Watch, spent a year interviewing formerly incarcerated girls and gathering information on the facilities. She found that staff uses excessive force on girls for such minor infractions as improperly making their beds or failing to raise their hands before speaking. Incarcerated girls who disobey staff are routinely seized from behind and pushed to the ground with their arms pulled up behind them and held or handcuffed – resulting in cuts, bruises, abrasions on their faces and in rare cases, concussions or broken limbs. These findings took on an added urgency when, on Nov. 18, 2006, a boy held in the Tryon facility died; his death was linked to a face-down restraint.

Incarcerated girls are also at risk of sexual abuse, and frequently and unnecessarily subjected to strip searches, verbal abuse and threats. Staff handcuff and shackle the girls every time they leave the facilities, in violation of state regulations.

Compounding the abuses is an almost complete lack of accountability by OCFS, which refused to admit human rights observers to its facilities and attempted to withhold crucial non-confidential documents from public disclosure. "New York wants to hide the fate of the girls it incarcerates,"

LEFT **Eve Ensler of V-Day, a global movement to stop violence against women and girls**

FAR LEFT **Asadullah Muhammad, Youth Coordinator at Each One Teach One of the Juvenile Justice Project at the Correctional Association of New York, and Sabita Ramsaran, a youth leader with Each One Teach One, speaking at a human rights training**

according to Lewis, who had to file repeated Freedom of Information Act requests to obtain several thousand pages of documents, and interviewed 30 formerly incarcerated girls. "Confined girls are also short-changed by denial of access to essential educational services. Boys receive vocational education such as engine repair courses leading to nationally recognized certifications, but girls held in the same facility or just across the street are barred from these classes," said WRP director Lenora Lapidus, who accused the system of "enforcing outdated gender stereotypes" and denying young women "the chance to develop skills they need to survive in the outside world."

The majority of girls at Tryon and Lansing are 15 or 16 years old, although some are as young as 12. Most have suffered past physical and sexual abuse and need mental health care as well as treatment for drug and alcohol addiction, yet many do not receive the care they need.

The ACLU and Human Rights Watch called on New York, with more than 4,000 of the nation's 95,000 children in juvenile custody, to drastically curtail the use of brutal restraint methods to comply with human rights norms as well as its own regulations concerning facilities oversight.

The report generated a tremendous amount of media interest and drew the attention of policymakers and the public for the first time to the experiences of incarcerated girls. The attention placed tremendous pressure on OCFS to explain its practices and explore reforms. As a direct result of *Custody and Control*, the New York Office of the Inspector General commenced an investigation into conditions in the Lansing and Tryon facilities and the New York State Legislature convened a hearing on Dec. 18, 2006 to reevaluate the effectiveness of the New York juvenile justice system. WRP's Neier fellow testified at that hearing, further educating lawmakers and the public about abuses suffered by confined girls.

FAR LEFT **Juanita Crawford leading an educational workshop**

LEFT **Jaunita Crawford**

JUANITA CRAWFORD

"We were out of sight, out of mind."

Juanita Crawford was just 13 years old when she was arrested for, in effect, being in the wrong place with the wrong person at the wrong time. She'd brought a friend to a party, where the friend pulled a lethal prank – pouring bleach into another girl's drink. The friend told the arresting officer that she and Juanita had planned it together, turning her world upside down.

Charged and convicted of conspiracy and reckless endangerment, Juanita spent 15 months behind bars, 220 miles from home, enduring physical abuse, frequent strip-searches, tasteless food and the numbing loneliness that came from being wrenched from her family at such a tender age. One scene played over and over in her mind: the image of her aunt walking away, weeping, after the sentencing.

Juanita, who had been an honor student, had other reasons for being depressed: She didn't have a visitor in 15 months; it was too far from New York City for a 20-minute visit. And she lost ground in the "unchallenging" classes she took at the Lansing Residential Facility near Ithaca, one of New York's highest-security juvenile facilities for girls. Instead of advancing to the 11th grade, as she expected, she tested at the 8th-grade level after her release.

Juanita was lost in thought, and terribly frustrated about being so far away when there were problems at home, when a facility staff member approached her one day in the cafeteria. He wanted to know why she hadn't eaten her lunch. She shrugged, not wanting to talk about it, and the next thing she knew, he had grabbed her from behind and forced her to the floor. She was then taken to her room and handcuffed to a bedpost as punishment for being disrespectful. She complained about pain in one arm for two weeks before learning that he had torn a ligament in it.

These are just some of the experiences that Juanita discussed publicly every chance she got as a WRP intern. Her goal is to get others to share their stories, lift the lid off New York's little-known girls' juvenile facilities, and help people like her "make the most of their lives." She also would like to see more community-based centers to encourage contact with their families.

"We were out of sight, out of mind," she says of the girls who told their stories in *Custody and Control*. "It shouldn't have to be that way."

As a WRP intern, Juanita conducted outreach sessions at organizations serving at-risk youth. She taught court-involved young people that they are not alone, and offered them a wide range of ways to get involved in WRP's advocacy on behalf of incarcerated girls.

(left to right): **TOP ROW Joshua Riegel, Jennie Pasquarella, Arusha Gordon, Lida Shao, Araceli Martínez-Olguín, Mie Lewis, BOTTOM ROW Namitra Luthra, Lenora Lapidus, Claudia Florez, Emily Martin**

NEW STAFF

ARACELI MARTÍNEZ-OLGUÍN

Araceli Martínez-Olguín received her J.D. from the University of California, Berkeley's Law School (Boalt Hall) in 2004. She joined the ACLU as the Women's Rights Project Fellow after a two-year clerkship with Judge David Briones in the U.S. District Court for the Western District of Texas. As a law student, she worked for Morrison & Foerster, the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, and Judge Thelton Henderson of the U.S. District Court for the Northern District of California. She served as an Articles Editor for Berkeley's La Raza Law Journal, and was an active member of the Coalition for Diversity and Berkeley's La Raza Law Students Association. Prior to law school, Araceli taught bilingual kindergarten through Teach for America in Oakland, California. Araceli was born in Mexico City, and is a 1999 graduate of the Woodrow Wilson School of Public and International Affairs at Princeton University.

JENNIE PASQUARELLA

Jennie Pasquarella joined the staff of the Women's Rights Project as the Kroll Family Human Rights Fellow. Jennie comes to us from a ten-week clerkship at the International Criminal Court in the Hague, where she researched and advised an Appeals Chamber judge on issues involved in interlocutory appeals before the Chamber in the ICC's first case against a warlord from the Democratic Republic of Congo. Jennie graduated from Georgetown Law in May 2006, and from Barnard College in 2000. While at law school, Jennie was a Public Interest Law Scholar and co-founded Georgetown Human Rights Action. She has experience in a range of human rights work including a fact-finding mission to Ecuador to interview Colombian refugees, human rights monitoring in Chiapas, and asylum advocacy on behalf of Cameroonian and Congolese clients. She has also advocated on behalf of low-wage women garment workers in Latin America and Asia.

ARUSHA GORDON

Arusha Gordon joined the staff of the Women's Rights Project as a legal assistant in August 2006. She comes to WRP from the office of Senator Jim Jeffords, Vermont's Independent senator. Arusha received her B.A. from Wesleyan University in 2005 where she double majored in Government and a self-designed major in Peace and Justice Studies. During her time in college, Arusha interned in the Crisis Response Unit of Amnesty International USA and for Congressman Bernie Sanders (I-VT). She was also involved in student activism and helped organize educational and outreach campaigns on the Iraq war, the Israeli/Palestinian conflict, and white and class privilege.

LIDA SHAO

Lida Shao joined the staff of the Women's Rights Project as a legal assistant. In the summer of 2005, she interned with BREAKTHROUGH, an international human rights organization that uses education and popular culture to build a human rights culture. There, she did research on US immigration histories for an interactive timeline as a part of their Value Families Campaign. She is currently organizing with Critical Resistance, a national organization working towards ending

LEFT TO RIGHT **Araceli Martínez-Olguín, Jennie Pasquarella, Arusha Gordon, Lida Shao**

the prison-industrial complex; Paper Tiger Television, a collective dedicated to providing and facilitating critical analyses of issues involving media, culture, and politics; and Sisterfire NY, the local chapter of INCITE! Women of Color Against Violence, a national organization of radical feminists of color advancing a movement to end all forms of violence against women of color and their communities through direct action, critical dialogue and grassroots organizing. She earned her B.A. in Education and Community Health from Brown University in December 2005.

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