

# WASHINGTON IN ACTION

SUMMER 2022



PHOTO CREDIT: QUINN RUSSELL BROWN

*The ACLU works to protect the constitutional rights of all people. With an office in every state, our nationwide network of staff, volunteers, activists, and supporters take on the toughest civil liberties fights because we protect everyone's rights. In Washington, nearly 50 full-time staff work on issues including student rights, reproductive freedom, immigrant rights, criminal legal system reform, voting rights, transgender rights, privacy and technology, religious discrimination, and more.*

## From Our Executive Director

Michele Storms

Dear ACLU-WA Members,

Here at the ACLU-WA, we've been in conversation about hope and what it means to press forward in the face of white and other forms of supremacy, relentless attacks on our rights, and the myriad of other obstacles we face on a daily basis. Abolitionist organizer Mariame Kaba teaches us that "hope is a discipline." She says that practicing a grounded discipline of hope each day requires us to "choose to think and act out of a belief that we are going to win, to believe that there are more people who want justice, real justice, than there are those who are working against that." In light of our current landscape and the challenges ahead – from attacks on abortion rights to our most recent and difficult legislative session in Washington state – we remain committed to pressing forward and caring for our communities. We choose hope. Here is where I find radical hope in our work:

Access to abortion is secured in our state laws – it is one of the places where a pregnant person's rights and bodily autonomy are respected. You'll learn more about the national landscape, and what overturning *Roe v. Wade* means here in Washington. First and foremost, I want you to know that we will continue to do all we can to ensure access to services. I also want you to know that it is appropriate to mourn. It is appropriate to be angry. It is appropriate, if we can reach for it and hold tight, to have radical hope.

Shifting gears to celebrate the Supreme Court may feel extremely odd in this moment, but there is something historic and monumental we need to acknowledge. Justice Ketanji Brown Jackson's confirmation to the Supreme Court is a profound milestone, not only for Black women and girls, but for people of all races, gender identities, and backgrounds. Against the backdrop of 200-plus years of white men's perspective, it is crucial for people from marginalized communities to see themselves reflected on the bench and for the Supreme Court to benefit from their presence. Jackson's appointment should renew our energy to continue the fight for more representation of marginalized communities on the Supreme Court and at all levels of power and influence in our society.

I also want you to know that the ACLU-WA remains committed to defending our fundamental right to free speech. It is the foundation of all activism, and our commitment to it remains firmly intact. We have a 101-year history of defending free speech, and a 101-year history of evolving to rise to the most pressing challenges. In the pages that follow, you'll learn about our work to fight against racist censorship bills, anti-LGBTQIA2S+ bills and book bans taking hold in classrooms and libraries, and what we're doing to defend students' rights to protest, among other work.

No matter what comes our way, the ACLU-WA fights for belonging. We fight for autonomy. We fight for people's rights, especially for those whose rights are most often trampled. In "The 1619 Project: A New Origin Story," Ibram X. Kendi wrote, "The arc of the moral universe is indeed long, but it doesn't bend on its own. The people bend it – toward justice or injustice, toward equity or inequity."

In this moment, in these difficult times, I am choosing radical hope and I invite you to join me. Let's bend this arc together towards equity and justice, not stopping until we are all free.

In solidarity,

A handwritten signature in black ink, appearing to read "Michele Storms".

Michele Storms

# Abortion Rights in Crisis

by Leah Rutman, Health Care and Liberty Counsel, ACLU of Washington



Abortion rights rally and press conference on Tuesday, May 3, 2022, at Kerry Park in Seattle (Photo by the ACLU-WA)

We are living in a post-*Roe* world where the right to abortion no longer exists for many people, and abortion access is dependent on where you live and the resources you have.

The Supreme Court issued a devastating ruling this term on a Mississippi case, *Dobbs v. Jackson Women's Health Organization*. The court overturned *Roe v. Wade* and *Planned Parenthood v. Casey* – landmark decisions recognizing the constitutional right to abortion. The ruling will force countless people, disproportionately people of color, those with fewer resources, young people and undocumented immigrants, to remain pregnant and have children against their will or travel across state lines to obtain abortion care.

Now that *Roe* is overturned, over half the states in the U.S. are poised to pass legislation or have a trigger law that will go into effect to make abortion illegal, inaccessible and unsafe. This decision will set off a chain reaction with states banning abortion and criminalizing essential care. And anti-abortion politicians in Congress will work to pass a nationwide abortion ban as soon as they can.

Even before the *Dobbs* decision, states around the country were introducing and passing bills that ban abortion and put providers and patients at risk. In

Texas, the state legislature passed an extreme ban making abortion illegal at six weeks of pregnancy before many people even know they are pregnant. The law prohibits Texas providers from performing abortions and sets up a bounty system that allows private citizens to sue abortion providers and anyone who assists a pregnant person with accessing an abortion. Successful lawsuits result in private citizens receiving at least \$10,000 in damages. In addition to putting health care providers in legal and financial jeopardy, Senate Bill 8 means anyone, from the Uber driver who drives the pregnant person to their doctor to a friend who loans a pregnant person money for an abortion, can be sued. Currently pregnant people in Texas are forced to leave the state for abortions.

Other states have also adopted Texas-like bans on abortion or are considering similar bills. In March, Idaho passed a law which will allow certain individuals to sue abortion providers and obtain \$20,000 in damages. If implemented, the Idaho law, which has been blocked for now by the state supreme court, will likely lead to an increase of pregnant patients seeking access to abortion in Washington state. In Missouri, a bill was introduced that goes even further than SB 8, extending the law to cover those who aid or abet pregnant patients in obtaining out-of-state abortions. In Washington, all pregnant people who seek an

abortion will continue to have that right even though the Supreme Court has overturned *Roe*. The Reproductive Privacy Act, which passed by voter initiative in 1991, guarantees the fundamental right to choose or refuse an abortion. The state also provides funding for abortions for people with low incomes.

But while the right to choose an abortion is essential, it does not ensure access to care. We must now work tirelessly to expand abortion access, and protect abortion providers, patients, and those helpers who assist people in obtaining abortions.

Washington state took important steps towards this goal with a bill that passed this year. HB 1851 crucially expands abortion access and protects Washingtonians from criminalization for their reproductive health care decisions and pregnancy outcomes. With *Roe* overturned, there could be an up to 385% increase in pregnant people seeking abortions in Washington. HB 1851 expands abortion access by allowing more providers — such as nurse practitioners and physician assistants — to offer abortion care. It also makes the Reproductive Privacy Act gender neutral to protect and provide for the reproductive health care needs of transgender, non-binary and gender non-conforming individuals.

This year, the ACLU-WA also supported the introduction of the Keep Our Care Act to guarantee that communities will not lose access to quality, affordable care when health system consolidations take place. Unfortunately, this legislation did not pass. The protections provided by the Keep Our Care Act are especially critical as we face a dramatic rise in the number of pregnant patients seeking abortions in Washington. And this is just one of the many efforts we are committed to pursuing to increase and safeguard abortion access in Washington state.

Washington is one of a minority of states where pregnant people will now be able to access safe and legal abortions. The ACLU-WA is working with allies to ensure we protect providers, patients, and “helpers” and expand access to abortions for those who live in Washington as well as those who are forced to travel in search of care.

No one should be forced to carry a pregnancy against their will and face the life-altering consequences of being denied essential health care.

As politicians around the country continue to pursue attacks on abortion rights, this is our state’s opportunity to show up and help people. We will continue to fight to protect the right to bodily autonomy and expand access to abortion in Washington.

# Efforts to Censor Student Expression Are on the Rise, Nationally and in Washington

*By LaVendrick Smith, Media & Communications Strategist, ACLU of Washington*



Photo Credit: ACLU

With the midterm elections approaching, schools — and specifically what is taught in them — have become a divisive issue. Educators are grappling with ways to teach topics like race, gender, and sexuality. But rather than embracing open dialogue about these issues, state legislatures and lawmakers throughout the country are working to limit the way schools discuss them.

That effort, which includes book bans and laws restricting or outright prohibiting certain curriculum, has amounted to a wave of school censorship that has alarmed free speech advocates.

PEN America, a literary non-profit focused on protecting free expression, tracked nearly 1,600 book banning attempts in school districts across 26 states between last fall and March. The books highlight themes that include race and LGBTQIA2S+ issues, and often have prominent characters from historically marginalized communities.

It is not new for local community members to seek book bans, the organization says. However, PEN America found that 41% of the ban attempts it documented were connected to elected or state officials’ orders — a troubling trend undermining First Amendment principles.

“It really does feel like a culmination of a conservative backlash against efforts to be more inclusive,” said Kendrick Washington, policy advocacy director for the ACLU of Washington, who referred to the censorship movement as the “dying death rattle” of racism and bigotry.



“It’s just rooted in othering,” he said. “People have pushed companies and organizations to be more inclusive ... and it’s shifting the landscape. It’s making people uncomfortable ... And when people get uncomfortable, they get scared. And when they get scared, they lash out.”

Washington previously served as youth policy counsel for the ACLU-WA, advocating for policies that strengthen student rights in the state. He said there has not been as strong of a push in Washington state to censor schools as seen in other states, but the efforts are still there.

State lawmakers in the 2022 legislative session, for example, introduced House Bill 1807, a Republican-sponsored bill that sought to establish specific guidelines for teaching civics in K-8 education. The bill purported to allow lessons about the history of marginalized communities but put limits on teachers speaking on contemporary issues about race unless they provided varying viewpoints, which can lead to a harmful “both sides” narrative. The bill also aimed to stop teachings from The New York Times’ 1619 Project and historian Ibram X. Kendi’s popular book “How to Be an Antiracist.” The legislation stalled in committee.

House Bill 1807 also sought to prevent schools from teaching Critical Race Theory, a graduate-level discipline on race that’s been assailed by conservative lawmakers. CRT examines how racism has influenced U.S. law and is typically only taught in universities. By April, however, 16 states had passed laws restricting teaching on race in schools. These laws were led by lawmakers who claimed CRT indoctrinated students or made them feel uncomfortable.

“Critical Race Theory has sort of become a boogeyman, particularly for conservative movements,” Washington said.

Officials have also taken aim at LGBTQIA2S+ youth. While states like Florida have passed legislation restricting teachings on gender and sexuality, a few Washington school districts – including the Central Kitsap, Kent, and Walla Walla school districts – removed or considered bans on books about LGBTQIA2S+ themes. The Walla Walla and Central Kitsap school districts both considered removing “Gender Queer: A Memoir,” a graphic autobiography the American Library Association said was the most banned book in 2021.

The censorship goes beyond bans on books and curriculum. Schools throughout the country have sought to limit student involvement in anything from clubs and athletics to protests. By May, as many as 15 states had passed laws banning transgender youth from participating in sports consistent with their gender identity, for example.

Locally, the Marysville School District recently faced criticism for a proposing a policy that would require students to have parental consent to join school clubs. Critics say such a policy is harmful to LGBTQIA2S+ youth who could be forced to come out to disapproving parents before joining a needed resource like a Gay Student Alliance.

The spate of bans, policies, and laws targeting student expression can feel daunting. But there are ways to fight back, and students are doing just that. Teens in states like Texas, Pennsylvania, Missouri and New York have formed book clubs, held protests, and even sued districts for banning material. Locally, in Lacey, Washington, students announced they are raising funds to file a class action lawsuit against North Thurston Public Schools after the district banned protests on campus earlier this year.

Washington said it is important for students to know their constitutional rights do not disappear when they step on school grounds. While censorship efforts are not new, he acknowledged this particular campaign is unique in its intensity, as those in power are met with resistance from diverse groups who justly refuse to cede hard-earned rights.

“I think what’s frightening to those who don’t want progress, is seeing the strong coalition of people of different races and ethnicities, and backgrounds across socioeconomic lines, and what this indicates is a threat to power,” he said. “Because ultimately, that’s what all this really comes down to ... It’s about power and the ability to control.”

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# ADVANCING JUSTICE IN THE LEGISLATURE

## 2022 LEGISLATIVE SESSION REPORT



### From Our Legislative Director

Eric González Alfaro

In 2021, the Washington state legislature heard and took significant steps toward addressing the needs of community members, particularly in their calls to action on the COVID-19 health pandemic and the pandemic of racial injustice. In 2022, the story very well could have been the opposite if not for community action and coalitions that together built a resonant voice for the oppressed, the underserved, and those closest to the harms of injustice. Those voices made a difference in this election year and should give us radical hope for the future.

The ACLU of Washington does not work alone. Together, with community allies and activists, we meet the call for change with sensible solutions. The challenges we face are tremendous, including violent and corrupt police practices, barriers to healthcare access, and threats to our privacy, among others. We also work to address flawed policies enacted by past legislatures that, through inaction, continue to affirmatively hurt and systematically funnel people into mass incarceration and crippling debt.

Together, our passion for a better future is indefatigable. But the struggle is long, and it is no secret that policy and politics interact in ways that limit or assert transformative change and action — especially during an election year.

Power, money, and influence can obscure decisions that should otherwise be crystal clear. We are currently witnessing the exodus of young, diverse, talented, and respected leaders from public policy and government. It is a result of this dynamic, as it has been reported — and it is a shame.

Instead of dimming our collective light, we should shine brighter to show what is possible. That is, I believe, the antidote for the apathy people develop towards our system of governing and government.

The legislature has an opportunity to inspire the next generation of leaders — a chance to prove that great things are possible. What could happen if, instead of denying smart, innovative policies a vote, we bravely forged a path to a better future where people prosper economically and socially? Instead of rolling back life-saving police accountability measures against community-wide outcry, we reaffirmed that everyone deserves public safety, regardless of who you are and where you live? And instead of letting corporations hold the microphone in debates on data privacy, we empowered communities to play a more powerful role in solving some of the toughest issues facing the state? “Of the people, for the people, by the people” wasn’t just a good idea centuries ago. It is a promise that our representatives in government can fulfill today.

The ACLU-WA was founded on the premise that we all deserve a voice, that our rights must be protected, and that an injury to one is an injury to all.

I look forward to seeing the ACLU-WA clear the path to prosperity as it continues its coordinated and collaborative plan to protect and strengthen civil rights and civil liberties. As we have increasingly seen devastating blows to landmark cases at the national level, Washington state must lead, once again. As we know, not everyone has the privilege of time. We must make progress to undo the harm of generations past, by working in the present with the idea that our future generations deserve so much better.

This report is a testament to what we have collectively accomplished. It is a challenge for our state to do better. It is a promise that the ACLU-WA will never surrender hope.

# Legislative Impacts

## Police Pushback Bills

In 2021, the Washington legislature passed a slate of policing bills aimed at reducing police violence and increasing accountability. As a result of intense and unified police lobbying across the state and a fearmongering campaign against last year's police reform laws, lawmakers introduced 12 bills that would have rolled back the victories from 2021. With significant organizing and a concerted effort by the Washington Coalition for Police Accountability (WCPA), the ACLU-WA and our allies across the state, only a single pushback bill ultimately passed, and we succeeded in narrowing it considerably. However, the resulting change to our state's use-of-force law does open the door to police violence against community members, particularly during "stop and frisks" when people are simply being questioned by police.

## Police Accountability through Civil Liability

The ACLU-WA, in collaboration with WCPA, continued to push for law enforcement accountability across the state. We advocated for a bill that would create a private right of action for violations of the state constitution, the new use of force law, and Keep Washington Working which protects noncitizens, while ensuring that qualified immunity cannot be raised as a defense against these lawsuits. The bill would authorize the attorney general's office to investigate and sue departments where there are patterns of misconduct.

## Policing Traffic Stops

Traffic stops are the primary way that people encounter police, and low-level stops especially are disproportionately made against people of color. Reducing these will reduce opportunities for racialized police violence. We worked with WCPA, Washington for Black Lives and the Transportation Choices Coalition to support a bill to remove officers from traffic stops for infractions and low-level offenses.

## Officer Discipline

The ACLU-WA in collaboration with WCPA, worked with labor union stakeholders to rewrite a bill that would require police departments statewide to have stringent minimum standards for handling complaints of officer misconduct, making it easier to hold officers who engage in serious misconduct accountable at the department level. Our work continues next session.

## Automated Decision Systems

Government agencies make some of the biggest decisions in people's lives — from whether they receive healthcare, to whether they can receive housing assistance, to how long they are sentenced to prison. Increasingly, these government decisions are being made by secret algorithms developed by both government agencies and private companies. This lack of transparency and accountability has created due process nightmares. We introduced a bill that prohibits any agency from developing or using

discriminatory automated decision systems and would have established minimum standards of fairness and accountability for any government agency buying or using these systems. In the 2021 session, the ACLU-WA successfully passed a budget proviso that created a task force to examine some of the systems in use. Over the interim, the ACLU-WA and Tech Equity Coalition members contributed to a report with strong recommendations on ADS procurement and use. This session, we managed to secure a \$100k budget proviso to create an inventory of existing ADS in Washington, but Governor Inslee vetoed this proviso. However, the state will still be working to create this inventory and we will continue to educate lawmakers and members of the public and push for accountability in 2023.

## Data Privacy

The ACLU-WA and the Tech Equity Coalition advocated for the People's Privacy Act, one of the strongest data privacy proposals in the country. This bill would prohibit companies from collecting, using, or selling people's information without freely-given opt-in consent. Our advocacy for strong data privacy legislation helped stop the passage of the weak, industry-backed Washington Privacy Act for the fourth year in a row. That bill claimed to protect consumers' personal information, but instead prioritized the ability of corporations to profit from the use and sale of that data. Its defeat sends a strong message: Washington should set the gold standard for protecting the privacy of individuals' personal data against corporate profiteering. The ACLU-WA will work over the interim to push forward strong privacy protections in the next legislative session.

## Raise the Age

Washington is one of only a handful of states where youth as young as 8 years old can be incarcerated. For the past couple of sessions, the ACLU-WA and allies have worked to educate legislators on both sides of the aisle to pass SB 5122, which would have changed the age at which a child can enter the juvenile legal system from 8 to 13 and studied the expansion of the top range of juvenile court jurisdiction. While our effort was unsuccessful in 2022, our team is committed to continuing this important work in 2023.

## "Education" Bills

This year, the ACLU-WA spoke truth to power and blocked several harmful censorship and policing efforts masked as "education" bills. Specifically, HB 1807 sought to prohibit teachers from discussing issues of the most profound national importance, such as the impact of systemic racism in our society. HB 1807 would have also barred schools from including any material related to the New York Times' 1619 Project, Dr. Ibram X. Kendi's book "How to Be an Antiracist," and critical race theory in class curricula. Additionally, HB 1585 would have required curriculum to be added to driver training to educate student drivers on best practices to use when detained by law enforcement while driving. HB 1507 would have put

the onus for preventing police violence during traffic stops on the individual driver, rather than the officer. This ideology blames the victim of police violence and furthers the law enforcement narrative of “if people just listened to officers, there’d be no harm done.” Traffic stops data consistently shows that drivers of color, and drivers of older vehicles, are stopped more often than other drivers.

### **Ending Solitary Confinement**

The use of solitary confinement in our state prisons is torture and has devastating impacts on those incarcerated. Building on the work in 2020 that helped successfully pass legislation to ban juvenile solitary confinement for disciplinary purposes, the ACLU-WA has partnered with Disability Rights Washington over the past two years to introduce legislation that bans the use of solitary confinement beyond 15 days in prison. This year, we pushed for a legislative workgroup and helped create a coalition of advocates to elevate the importance of this issue. Despite a powerful committee hearing with testimony by a panel of currently and formerly incarcerated advocates, medical experts, and many supporters, the bill did not pass. The work remains pressing as the Department of Corrections has increased its use of solitary confinement in response to COVID and as prison conditions have worsened. We are working during the interim to pass this bill in 2023.

### **Sentencing Reform**

The ACLU-WA is working in coalition and partnership with many allies and incarcerated individuals to combat the systemic inequities and institutional racism of the criminal legal system through holistic sentencing reform and decarceration efforts. We supported several legislative proposals this session to reduce sentences and provide an avenue for release for many serving excessively long sentences. Our priority bills would eliminate the practice of automatically sentencing people to longer prison terms because of offenses they committed as youth. These bills advance racial equity by eliminating this source of racial disproportionality from adult sentencing calculations. While none of these bills passed this session, we will continue our efforts to advance meaningful sentencing reform in 2023.

### **Health Equity for Immigrants**

An estimated 105,000 undocumented immigrants in Washington state are ineligible for Medicaid or Qualified Health Plans as a direct result of their immigration status. Without health insurance, people are more likely to have poor health outcomes, be hospitalized for preventable conditions and acute illnesses, and die prematurely. As a core member of the Health Equity for Immigrants Campaign, the ACLU of Washington successfully helped obtain \$12 million in the state budget this year to build health coverage programs for all Washingtonians, regardless of their immigration status. The programs will include a Medicaid equivalent program for the

lowest income adults. And, if the state can receive a federal waiver, affordability assistance for those just above the Medicaid line who purchase insurance on the Exchange. The programs are set to launch in 2024. This was a monumental first step, but we have significant work ahead to ensure the programs will be fully funded, and that impacted communities are centered in program creation and management, including through community input processes and culturally appropriate enrollment outreach. For too long, immigrants have been barred from accessing affordable health coverage and care, and this will help close that gap.

### **Abortion Access**

For years mergers and acquisitions between health care entities in Washington state have decreased access to reproductive, end-of-life and gender affirming care. This year the ACLU-WA, in coalition with allies, introduced the Keep Our Care Act which will ensure health system consolidations improve rather than harm access to affordable, quality care. Despite a strong hearing with powerful testimony the bill did not advance this year. Moving forward we will continue fighting against discriminatory restrictions on care and consolidations that limit access to the health care Washingtonians need.

### **Cannabis Revenue and Behavioral Health**

The ACLU of Washington continues to support legislation that will transform our state’s response to behavioral health issues and end the racist war on drugs. We worked with lawmakers on drug policy legislation and budget matters as part of our effort to introduce and pass a 2022 ballot initiative – I-1922, which would replace failed policies of the past with proven approaches that address substance use disorder through prevention, outreach, and recovery services. Continuing to treat drug possession as a crime damages our communities. We need a better approach that addresses the root causes of substance use.

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## Ranked Choice Voting

In the 2021-2022 biennium, advocates for communities that are underrepresented in our state and local legislative bodies worked with prime sponsor Representative Kirsten Harris-Talley and 26 co-sponsors to introduce and move HB 1156, giving local governments the option to transition from a plurality, first-past-the-post voting system to ranked choice voting (RCV). RCV allows voters to rank candidates in their true order of preference without worrying they might be “throwing their vote away” on a candidate not projected to win. If their first-choice candidate does not secure a majority, elections officials then consider their second-choice vote. If that candidate does not secure a majority, they turn to the voter’s third choice, and so on. RCV also eliminates the rationale for discouraging candidates from running on the basis they might be “spoilers” for candidates presumed to be likely front-runners. ACLU-WA signed in to support this community-driven proposal, and we will be examining RCV and other democracy reform possibilities over the interim.

## Washington Voting Rights Act – Preclearance

In 2018, the governor signed into law the Washington Voting Rights Act (WVRA), which codifies the federal Voting Rights Act of 1965 into state statute and enables communities to more successfully advocate for fair and equitable representation in local government. Under the WVRA, community members must initiate challenges to racist voting systems, including at-large and district-based election systems that can deny race, color, or language-minority groups equal opportunity to elect candidates of their choice.

We advocated for SB 5597, which would require certain local jurisdictions to obtain preclearance before changing their voting systems or practices to help prevent racist vote suppression and dilution from happening in the first place. This avoids the need for expensive and lengthy litigation campaigns.

The Washington State Senate advanced the legislation, but it stalled in the House. We are optimistic that our elected officials will acknowledge that voting discrimination violates the core values of our democracy and see the advantage of cost-effective, preventive measures that bolster confidence in the electoral system.

## Washington Future Fund

“Baby bonds” are an idea originated by New School professor Darrick Hamilton, a leading scholar in the emerging field of stratification economics. Connecticut was the first state to pass legislation adopting this policy, which invests a modest sum of state funds on behalf of each child born into poverty, to be made available for higher education, home ownership, or starting a small business. National ACLU has incorporated advocacy for this policy into the nationwide Systemic Equality campaign, and this session, the ACLU-WA was presented the opportunity

to partner with National colleagues in support of companion bills requested by the Washington State Treasurer. While the full policy did not get across the finish line, a proviso for a study committee was included in the 2022 supplemental operating budget, and we look forward to continuing the work in 2023.

## BY THE NUMBERS

### LEGISLATIVE ADVOCACY IN THE 2022 BIENNIUM 2022 SESSION (JANUARY 10 - MARCH 10)

**469** Bills we reviewed (includes companion bills)

**121** Bills we supported

**81** Bills we opposed

**32** Meetings ACLU-WA supporters held with legislators

**650,000+** Emails sent to supporters on ACLU-WA legislative priority issues

**20,000+** Messages sent by supporters to lawmakers

**23** Bills we supported that were enacted

**70** Bills we opposed that failed

**244** Total days from end of 2022 session to start of 2023 session

## The Power Is with the People

Like last year, the ACLU-WA gathered activists together to learn and to lobby legislators about critical civil liberties bills in a completely remote session. Activists from across the state joined the affiliate via Zoom for the second-ever virtual Lobby Week.

From Monday, Jan. 17 (Martin Luther King, Jr. Day) through Friday, Jan. 21, 2022, supporters representing 18 legislative districts in Washington state worked in teams to attend virtual meetings with state representatives and senators. Over the course of these 32 meetings, activists advocated to expand healthcare access for immigrants, low-income, and uninsured communities in Washington state, to protect access to quality, affordable health care through Keep Our Care Act, and to restrict solitary confinement in prisons. Lobby Week participants also registered their position on bills for the public record, attended virtual hearings, emailed lawmakers, and completed action alerts to support our full legislative agenda. Stay tuned for more information about next year’s Lobby Week on January 23, 2023!



# Client and Legal Updates

## **Rios v. Pierce County**

In November 2019, Carlos Rios, a U.S. citizen, had charges dropped but was nevertheless kept in custody by Pierce County based on a request from U.S. Immigration and Customs Enforcement (ICE). He was transferred to the immigration detention center for one week before ICE officers acknowledged he was a U.S. citizen and not subject to deportation.

Mr. Rios filed a lawsuit against the U.S. government and reached a settlement with them in September 2021. In early March, he agreed to end a separate lawsuit against Pierce County after reaching a settlement awarding him damages.

This landmark case is the first known to seek relief under the Keep Washington Working Act of 2019 (KWW). This statewide law prohibits state and local law enforcement agencies from participating in federal immigration enforcement. Implementing and enforcing KWW is an important tool in the fight to stop systemic discrimination, racial profiling and unlawful police and immigration practices.

## **Kortlever et al. v. Whatcom County**

The ACLU-WA filed a first-of-its-kind class-action civil rights lawsuit in 2018 against Whatcom County and the Whatcom County Sheriff's Office for denying people with opioid use disorder (OUD) access to the medication assisted treatment (MAT) necessary to treat their health condition, despite it providing other clinically-appropriate medications to people in the jail. This violates the Americans with Disabilities Act (ADA).

In a 2019 settlement, the Whatcom County Jail agreed to provide MAT services to medically-appropriate people in the jail with OUD, both maintaining treatment for people already on MAT as well as starting treatment for qualifying people before release. The settlement concluded in May 2022, but the program is expected to continue and is building momentum for increased access to MAT for incarcerated individuals across the country.

## **Kitcheon v. Seattle**

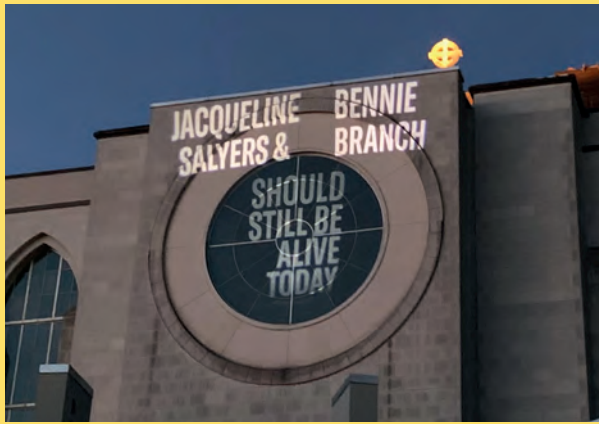
In 2019, the ACLU-WA filed a lawsuit on behalf of unhoused individuals in Seattle alleging the encampment sweeps conducted by the city of Seattle are unconstitutional because they illegally seize and destroy the property of people who are living outside, plus lack adequate and effective notice, an opportunity to be heard, or a meaningful way to reclaim any property that was not destroyed. One of the claims made in the case is that the sweeps constitute cruel punishment under the Washington State Constitution because the city cannot punish or threaten people with arrest for something they have no choice in doing – making their home outside because there is an extreme insufficiency of housing and shelter available.

The City of Seattle moved to dismiss this claim and other parts of the case in January 2022, but the court denied the motion, allowing the case to move forward. The ACLU-WA is continuing to work on this litigation and to fight for the rights of unhoused individuals living in Washington.

## **State v. GEO Group**

Private contractor GEO Group runs the Northwest Detention Center in Tacoma and pays the federal immigration detainees held there \$1 per day for a variety of work that helps run the facility, including kitchen work, laundry and other cleaning.

The State of Washington and a class of detainees sued GEO Group, claiming the workers must be paid the state minimum wage because GEO



Jacqueline Salyers should still be alive today. Photo from the ACLU-WA and Saint Mark Episcopal Cathedral's Projecting Justice project last spring, [projectingjustice.org](http://projectingjustice.org). (Photo by the ACLU-WA)

### **Earl v. City of Tacoma**

In 2016, Jacqueline Salyers, an unarmed, pregnant Indigenous woman was shot four times and killed by a Tacoma Police Department officer. Her mother, Lisa Earl, sought answers through public records requests. She received two installments of responsive records and was told that a camera set up by the Tacoma Police Department “malfunctioned.” Coincidentally, the only footage available was right before and after the shooting.

In the course of a lawsuit she filed against the City of Tacoma, she received additional material that she believed should have been produced through her public records request. She filed a Public Records Act suit within one year of this discovery to get additional records, which was dismissed because her discovery of the records violation occurred over two years after Tacoma police killed her daughter, past the one-year statute of limitations. She has appealed and we filed an amicus brief to support her assertion that the statute of limitations should “toll” from the time the violation is discovered or that equitable tolling should apply given the evidence suggesting that the City of Tacoma engaged in fraud and deception. Through its brief, the ACLU-WA supports common sense exceptions to the statute of limitations in Public Records Act cases, particularly in police actions resulting in homicide where Indigenous peoples are disproportionately victims.

Group is a private company and does not get immunity or exemptions to state law that the federal government gets. A jury in federal court agreed, resulting in an order for GEO Group to pay minimum wage and millions of dollars in back wages for the plaintiffs.

The case is now on appeal to the U.S. Court of Appeals for the 9th Circuit and the ACLU-WA, along with the ACLU National Prison Project and other groups, is drafting an amicus brief supporting the jury verdict.

### **Tingley v. Ferguson**

The ACLU-WA filed an amicus brief in the case *Tingley v. Ferguson*, in which a therapist sued the Washington state attorney general to stop enforcement of the state’s conversion therapy ban. Conversion therapy attempts to change the sexual orientation or gender identity of a patient – a practice that medical and mental health organizations have long held does not work and puts young people at serious risk of harm, including depression and suicide.

Federal district court rejected Mr. Tingley’s claim that Washington’s ban infringed on his right of free speech. He has appealed the ruling. Our amicus brief in this case defends a law that protects LGBTQIA2S+ minors from being subjected to sham therapeutic practices that do not meet the standard of care.

### **State v. Tesfasilasye**

In a legal system rife with bias and a criminal legal system that disproportionately targets people of color, the racial and ethnic diversity of juries is crucial. To protect the right to a jury “of one’s peers,” the right to a fair trial, and to ensure that jurors of color are not improperly excluded from serving on juries, the Washington Supreme Court enacted GR 37. This court rule, which the ACLU-WA helped create, seeks to diminish racism in jury selection by prohibiting parties from striking a juror without

giving a reason (a peremptory challenge) if an objective observer who is aware of implicit and institutional racism in jury selection could view race as a factor in the strike.

In this case, a Black, monolingual immigrant man was accused by the State of a serious crime against a woman of a different race. At his trial, the court allowed the State to strike two jurors of color based on matters that are historically associated with juror discrimination.

The ACLU-WA's amicus brief argued, in part, that it is imperative that all people — but particularly Black people accused of a serious crime involving a victim of a difference race — have the opportunity for a diverse jury. Racial diversity improves the reliability of jury outcomes in the criminal legal system and affords defendants a fair trial. It further argued that the discriminatory use of peremptory strikes compound racial disparities in the criminal legal system by denying potential jurors of color the privilege of participating equally in this critical civic process.

### **State v. Garza**

As a 17-year-old in 1995, Javier Garza was convicted in juvenile court. When Mr. Garza moved to vacate and seal his record of conviction after completing his requirements, the prosecutor objected, and the Yakima Superior Court judge refused to vacate the record. On appeal, the Court decided that juvenile records cannot be vacated while adult records can because of a word choice — juvenile courts issue a “judgment” and not “order and findings.”

The ACLU-WA filed an amicus brief in support of Garza arguing that individuals should have the ability to vacate and seal their records from when they were juveniles. The brief was spearheaded by the King County Department of Public Defense and many organizations including the ACLU-WA joined in support.

### **State v. Hawkins**

The ACLU-WA filed an amicus brief challenging the court's refusal to vacate a conviction record despite the requirements for it having been satisfied. The case involves Isabelita Hawkins, a Black woman veteran charged with assaults connected to post-traumatic stress she suffered. She got treatment and completed all her requirements, but the judge refused to vacate her conviction. Our amicus brief asks the court to consider the overrepresentation of individuals with serious mental illness in the criminal legal system, the purpose and efficacy of treatment courts and the long-term negative effects of conviction history.

#### **UPCOMING EVENTS**

**07.19.22** **FLIGHTS & RIGHTS:  
LGBTQIA2S+ PRIDE**

**10.21.22** **RADICAL HOPE:  
ANNUAL CELEBRATION**

*Register at [aclu-wa.org/events](https://aclu-wa.org/events)*



# ACLU

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## RADICAL HOPE



ACLU-WA ANNUAL CELEBRATION

SAVE THE DATE

OCTOBER 21<sup>ST</sup>, 2022

[aclu-wa.org/celebrate](http://aclu-wa.org/celebrate)

“Radical hope is not felt in a static moment. It is built in the moments that grow the way a seed sprouts despite the dire conditions, or how the mountains continue to nestle the sun every break of dawn. It is in the deep reflections and hard conversations we have with ourselves and with our communities, it is the movement of our body when it dances, marches, prances.

This illustration is meant to express the multitude of moments and ways we find hope. I hope it can inspire that for you too.”

- Monyee Chau

This save-the-date offers a slice of Monyee's celebration illustration. We look forward to sharing their full vision of radical hope. Learn more about them at [chinesebornamerican.com](http://chinesebornamerican.com) and @monyeeart.