



defending
everyone

aclu of washington annual report 2008



ACLU

AMERICAN CIVIL LIBERTIES UNION
of WASHINGTON



2008 annual report

ACLU-WA | ACLU-WA Foundation

Dear friends,

The final months of the Bush administration feel like the end of a long, unwelcome journey. We have seen so many revelations of secret surveillance programs, abuses of executive power and betrayals of our basic values as a nation. The damage to our constitutional system will not easily be repaired.

Despite the judiciary's rightward tilt, the courts have provided some welcome victories for civil liberties. The U.S. Supreme Court recently delivered a stinging rebuke to the administration for its handling of detainees at Guantanamo. This spring a federal appeals court reinstated our lawsuit challenging the dismissal of a much-decorated Air Force major, and said the military must have real evidence that her sexual orientation caused problems with morale (actually, it was the dismissal that hurt morale). And in another ACLU-WA case, the Washington Supreme Court resoundingly rejected a school district's program of testing students' urine without suspicion that individuals had done anything wrong.

To the south, the influential California Supreme Court issued a ruling that would have been unthinkable just a few years ago, recognizing the right of same-sex couples to marry. While Washington's high court in 2006 narrowly rejected a challenge by the ACLU-WA and others to our state's marriage ban, the past two legislatures stepped up to pass numerous legal protections for

same-sex couples. Domestic partnership legislation is still short of full equality, but represents significant progress nonetheless.

Indeed, many initiatives on cutting-edge issues are taking place at state and local levels. In 2006 the ACLU-WA launched a Technology and Liberty Project to ensure that government and businesses respect civil liberties in decisions about technology. The project's efforts to safeguard privacy already are bringing results. This year the Washington Legislature unanimously passed a groundbreaking ACLU-backed measure that protects the personal information of individuals who hold the new Enhanced Driver's License. And transportation officials responded to ACLU-WA advocacy by agreeing to modify their plans so as to prevent the tracking of riders who will use the upcoming ORCA regional transit card.

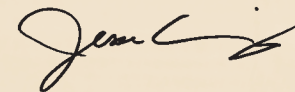
In another new project, the ACLU-WA has collaborated with travel writer Rick Steves to educate people about the harsh effects of marijuana laws. Thousands of people have viewed our award-winning video, and tens of thousands have checked out the project's website marijuanaconversation.org.

We also are engaged in efforts to combat a phenomenon known as the "school-to-prison pipeline," the result of policies that channel young people from the educational system to the criminal justice system. The ACLU-WA has conducted workshops and distributed

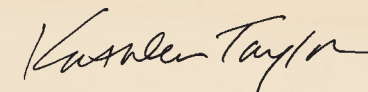
information about the rights of students and their families in schools and in truancy proceedings. Our focus has been on the unequal impact of policies on students of color, especially on Latinos and Native Americans in central Washington.

In this election year, the ACLU-WA has continued its local campaign to shine a spotlight on the unfairness of disenfranchising people with felony convictions simply because they owe money. Our Voting Rights Restoration project has passed the hundred mark in the number of people we have helped to regain the franchise. We will continue to seek reform in the next legislature.

The recent bipartisan action by Congress to pass an anti-liberty FISA law reminds us that much work will remain to restore the Constitution regardless of the election's outcome. We look forward to the dedicated support of the ACLU's freedom-loving members as we approach that task.



Jesse Wing
Board President



Kathleen Taylor
Executive Director

NATIONAL



“They who can give
up essential liberty
to obtain a little
temporary safety,
deserve neither
liberty nor safety.”

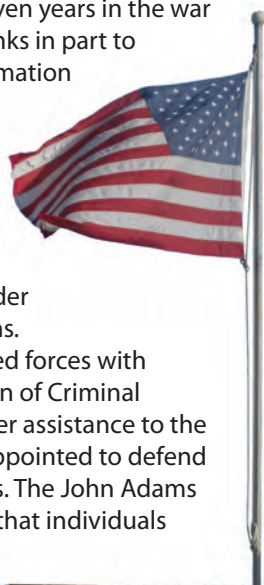
— BENJAMIN FRANKLIN

SECURITY

Ending Torture, Closing Guantánamo

The ACLU has worked tirelessly to shed light on injustices and restore the constitutional principles that have been eroded over the last seven years in the war on terror. This year, thanks in part to ACLU Freedom of Information Act requests, came the first public disclosure of official White House memos justifying the use of torture, and exempting the U.S. from its obligations under the Geneva Conventions.

The ACLU has joined forces with the National Association of Criminal Defense Lawyers to offer assistance to the government lawyers appointed to defend Guantánamo detainees. The John Adams Project aims to ensure that individuals have the best chance of a fair trial, given the unjust system set up by the Military Commissions Act. The act denies detainees basic constitutional rights, even allowing the use of hearsay and



evidence obtained through torture.

In June, the U.S. Supreme Court (in *Boumediene v. Bush*) issued its third major decision that the U.S. Constitution applies to the government's detention policies at Guantánamo. The court ruled that prisoners there have the right to challenge their detention through habeas corpus proceedings. Dating from the Magna Carta, habeas corpus protects against being thrown in prison illegally, with no help, no end in sight and no due process.

Tackling the practice known as "extraordinary rendition," the ACLU in August 2007 sued Boeing subsidiary Jeppesen Dataplan, Inc., for helping to fly individuals to secret facilities in other countries so they could be questioned, tortured and held outside of the reach of U.S. law and the Constitution. We are appealing a lower court ruling that dismissed the suit on grounds that the program was protected by the "state secrets" privilege. The ACLU has opposed repeated claims of "state secrets" by the Bush administration to shield itself from lawsuits and investigations about warrantless spying, extraordinary rendition and torture.



Soldiers perform a security check on Anthony D. Romero, the executive director of the ACLU, as he arrives to observe military commission hearings at Guantánamo Bay.

FISA: Congress Caves In

Uncovered in 2005, the National Security Agency's secret spying program circumvented the Foreign Intelligence Surveillance Court – which provides the legal framework for conducting surveillance – by allowing the government to intercept international e-mails and phone calls without court approval.

An ACLU lawsuit challenging the program succeeded in federal district court in Michigan, only to be dismissed in January 2008 on grounds that plaintiffs could not prove they had been subjected to surveillance – a virtually impossible hurdle because the program is secret.

In Washington state, the Utilities and Transportation Commission held hearings on the ACLU-WA's request to investigate whether phone companies in the state had

(CONTINUES ON NEXT PAGE)

NATIONAL SECURITY (CONTINUED)

violated the law by turning over customer records to the NSA, but Congress' decision to give immunity to the phone companies foreclosed the possibility of an investigation.

After resisting fear-mongering by the administration for months, Congress finally caved in. Early this summer it passed the FISA Amendments Act of 2008, giving the government new, unchecked spying powers.

The government can now conduct surveillance without telling a court on whom it intends to spy, why the surveillance is necessary, or whether it suspects any party to the communication of wrongdoing. The act also grants immunity to telecoms.

On the very day the law was passed, the ACLU filed a legal challenge on behalf of journalists and organizations that rely on communications with people abroad, and who feel their work will be stifled by the threat of surveillance.

Government Watchlists

The ACLU gained a victory in a lawsuit that challenges the notoriously inaccurate secret terrorist watchlists maintained by the government. In April, a federal court in Illinois ordered the Department of Homeland Security and the FBI to disclose whether 10 people who have been repeatedly stopped and questioned at border crossings are

on a federal terrorist watchlist. The order came in an ACLU lawsuit, which included plaintiff Shimrote Ishaque, an Edmonds pharmacist and an observant Muslim. In 2006, he was detained at gunpoint and held for 90 minutes at the Blaine border crossing, because a federal watchlist incorrectly identified him as "armed and dangerous."

He experienced similar delays when returning from other trips abroad. Each time he was eventually cleared and allowed to re-enter the country.

Federal Agents at Ferry Terminals

Federal agents have been using their authority to control the borders to extend intrusions on liberty to inland areas. Beginning in March, officers of the U.S. Customs and Border Protection Agency periodically have set up checkpoints at the Anacortes ferry terminal. Though these are domestic runs, agents have been stopping ferry riders to ask about their place of residence and citizenship. Justified by the feds as an anti-terrorist program, the questioning has focused on immigrants with no suspicion of being terrorists. In addition, border

patrol checkpoints have spread to Olympic Peninsula highways.

The ACLU-WA has been working with concerned residents and immigrant rights advocates to protest the stops and inform people about their legal rights.

Resisting REAL ID

The ACLU-WA called on state officials to stand firm in resisting pressure from the Bush administration to join the national ID system envisioned in the 2005 REAL ID

Act. This flawed piece of legislation mandates states to standardize their driver's licenses, and to share private drivers' information with other states and federal agencies.

The 2006 Washington Legislature passed a measure barring the state from implementing REAL ID. This January, the U.S.

Department of Homeland

Security issued rules that required states to start implementing REAL ID standards by May 11, or their residents would risk being unable to use their driver's licenses to fly in commercial planes or to enter federal buildings. Washington and many other states continue to refuse to participate in REAL ID.



IMMIGRANT RIGHTS

Citizenship Applications Unduly Delayed

In September, in Tukwila, over 250 people took the oath to become naturalized U.S. citizens. The ceremony was the result of a victory in a class action lawsuit brought by ACLU-WA and the Northwest Immigrant Rights Project (NWIRP).

Since 9/11, the government has kept thousands of people waiting long past the legal deadlines for processing their citizenship applications because of unnecessary delays in background checks. The government's failure to

act left these individuals in limbo. Many of them worried that when traveling, they might be prevented from returning to their homes in America. They also wanted to be able to vote and participate fully in civic life.

To remedy this situation, the ACLU-WA and NWIRP in 2007 filed the federal lawsuit on behalf of several Seattle-area residents who had applied for citizenship, but had waited months or years for the government to approve or deny their applications. This legal victory allowed hundreds of individuals to become naturalized citizens in time to vote in the November elections.



Proud new American citizens, thanks to a lawsuit by the ACLU-WA and the Northwest Immigrant Rights Project.



“This Nation was founded by men of many nations and backgrounds. It was founded on the principle that all men are created equal, and that the rights of every man are diminished when the rights of one man are threatened.” — JOHN F. KENNEDY

FREEDOM



**"The antidote
for misuse of
freedom of
speech is more
freedom of
speech."**

— MOLLY IVINS

OF SPEECH

What's Wrong With This Picture?

Since 9/11, law enforcement has viewed photographers in public with suspicion. This past year, we came to the aid of two photographers who ran into trouble for taking pictures.

One such case involved Bogdan Mohora, an amateur photographer who likes to snap shots of scenes he finds interesting. Mohora was walking in downtown Seattle when he saw two police officers arresting a suspect. He stopped briefly and took two pictures without interfering with the officers. One of the officers told Mohora to hand over the camera. When Mohora asked for an explanation, the second officer said to "cuff him and bring him with us."

Police held Mohora at a precinct station for nearly an hour. He was released with a warning that he would be charged later for "disturbing the peace," "provoking a riot," or "endangering an officer." He was never charged, as he had committed no crime.

A police investigation later determined that the officers behaved inappropriately. In October 2007 the ACLU-WA obtained \$8,000 in compensation for Mohora from the city of Seattle.



Photographer Bogdan Mohora at an ACLU-WA press conference.

The Unfiltered Truth

For many people, public libraries provide valuable access to the wealth of information on the Internet. Adults should be able to view websites at public computers without having to seek the approval of library officials.

In April, the U.S. District Court in Spokane heard arguments on

a pending ACLU-WA lawsuit against the North Central Regional Library District over the district's refusal to give adults unfiltered access to the Internet upon request. The blocking software used by the district to filter Internet content is configured in a way that blocks a broad array of lawful information.

Libraries that receive funds for Internet access under two specific federal programs are required to have the ability to block minors from seeing "visual depictions" of sexual activity. The U.S. Supreme Court has interpreted the law to mean that libraries may disable those filters upon the request of an adult. The library district refuses to agree to simply unblock sites for adult patrons when they request it. The ACLU-WA says this policy violates the federal and state constitutions.



RIGHT

**"The right to be let alone
is indeed the beginning
of all freedom."**

— U.S. SUPREME COURT JUSTICE
WILLIAM O. DOUGLAS



TO PRIVACY

Enhanced Privacy for New License

To ease border crossings by U.S. citizens, the federal government this year began issuing the so-called Enhanced Driver's License (EDL). This optional document allows citizens to enter the U.S. from Canada, Mexico, Bermuda and the Caribbean without a passport.

The U.S. Department of Homeland Security requires the EDL to include a Radio Frequency Identification tag (RFID) that transmits a unique identity number to a machine at border crossings. The unique number can be read by a receiver from distances more than 20 feet; and it can be read by machines posted anywhere, not just at the border.

The ACLU-WA and the Department of Licensing promoted, and the legislature unanimously adopted, a bill that makes it illegal to possess, read or capture the identity number on an EDL without the license holder's express knowledge and consent.

Travel Without Tracking

The ORCA card system (One Regional Card for All), planned for 2009, will allow riders seamlessly to

use many forms of public transportation. To facilitate fare payments, the ORCA system will record the date, time and route number for each trip.

The ACLU-WA discovered that transit agencies planned to collect the travel information linked to each card and that it would be available to schools and employers subsidizing transit passes. This would have allowed the tracking of card holders' movements on public transit.

After meetings with the ACLU-WA, transit officials responded to our concerns by taking steps to ensure that organizations subsidizing transit passes will not be able to view individual transaction records through reports on the Web. The information will, however, be available by requests made under the state's Public Records Act.

A Stroll in the Park, with Police Cameras

This winter the city installed police cameras at Cal Anderson Park on Seattle's Capitol Hill. Despite vocal opposition from ACLU-WA, Mayor Greg Nickels announced plans to extend the surveillance program to three more parks. The cameras record video that

can later be monitored. They can also be moved, zoomed and watched live by police after illegal activity is reported.

Research has shown that government cameras do not prevent crime, they just move it to areas outside of the view of the camera. As the ACLU-WA had urged, the city council set limits on retention of recorded images and will conduct an audit of the cameras' impact on crime after 21 months.

Searches by Scent

The ACLU-WA has submitted an amicus brief in a case before the Washington Supreme Court involving a man who was detained during a traffic stop and then subsequently arrested on drug charges when police used a dog to search his car without a warrant. The ACLU-WA pointed out that allowing dog searches without a warrant would give police unfettered powers to use dogs to sniff cars in parking lots or even random homes in apartment complexes.



LGBT



**“Wounded people
never asked me
about my sexual
orientation. They
were just glad to
see me there.”**

—MAJOR MARGARET WITT

ACLU-WA plaintiff Major Margaret Witt in the suit against sexual orientation discrimination in the military.

RIGHTS

“Don’t Ask, Don’t Tell”: Do Explain

Under the “Don’t ask, don’t tell” policy, the U.S. military continues to dismiss skilled, dedicated persons for being lesbian or gay, even as it struggles to meet personnel needs while waging two wars. Such is the case of Major Margaret Witt, a highly decorated flight nurse who has served in the Air Force for 19 years and was dismissed from her post in 2006 after it was discovered she had a past relationship with another woman, a civilian.

The ACLU-WA sued to have Major Witt reinstated. The military has provided no evidence that her sexual orientation has caused a problem in the performance of her military duties. To the contrary, the ACLU-WA submitted declarations from military colleagues testifying that her forced absence is harmful to her unit’s morale.

In May 2008, the U.S. Court of Appeals for the Ninth Circuit overturned a lower court ruling dismissing the suit and found that before discharging a soldier, the military must prove that the individual’s conduct actually hurt morale or jeopardized another government interest.

The case has been sent back to federal district court in Tacoma for consideration under the appellate court’s standard of review.

More Rights for Domestic Partners

In a major breakthrough for fairness, the 2007 Washington Legislature established a statewide registry for domestic partners and granted registered same-sex couples limited rights to be informed and to make decisions for each other regarding health care, funeral and estate matters.

This year, the legislature expanded these rights significantly. It adopted ACLU-supported legislation that provided dozens more legal protections for registered partners. Included are community property rights, probate protections and joint responsibility for debts, among others.

The long-range goal remains full equality under the law for same-sex couples, including the right to civil marriage. We take heart from this May’s historic decision by the California Supreme Court to strike down that state’s ban on same-sex marriage.



ACLU-WA came out in full force to march in the 2008 Seattle Pride Parade.

Transgender Athletes

This past year, the ACLU-WA took action to defend the right of transgender students to participate in school-sponsored sports. In April 2007, freshman Jai Johnson-Baker sought to try out for the Mount Vernon High School cheerleading squad. Johnson-Baker, who is a transgender student, was at first denied the chance. School officials maintained that they could restrict the cheerleading squad to biological females in order to comply with federal and state anti-discrimination laws for school sports. But in a letter to the school, the ACLU-WA explained that Mount Vernon’s cheerleading squad is not classified as a competitive team, and it would be discriminatory to exclude students by gender. Following the letter, the school district changed its policies, allowing Johnson-Baker to try out for the squad.

STUDENTS

"No one is born a good citizen; no nation is born a democracy. Rather, both are processes that continue to evolve over a lifetime.

Young people must be included from birth. A society that cuts off from its youth severs its lifeline."

— KOFI ANNAN



AND YOUTH

Treating Students as Citizens

Suspicionless drug testing invades personal privacy and wrongly treats all students as suspects. In a case that lasted nine years, the ACLU-WA won a precedent-setting victory that has ended this degrading practice

for our state's public school students.

In March, the Washington Supreme Court ruled that it is unconstitutional for public schools to require students to submit to drug tests to participate in school athletics. The unanimous decision came in an ACLU-WA challenge of Wahkiakum School

District's policy of suspicionless urine testing for students who participate in extracurricular sports activities.

The court agreed with the ACLU-WA that the policy of suspicionless testing violates the privacy protections in the Washington Constitution. Though the U.S. Supreme Court has allowed such testing, the



ACLU-WA plaintiffs in the suit against student drug testing.

Washington Supreme Court consistently has recognized that the state constitution provides broader protections for privacy than its federal counterpart.

Runaway Injustice

The ACLU-WA works to ensure that authorities respect the due process rights of minors in truancy proceedings and try other less restrictive alternatives before resorting to jail time. In December 2007, the Washington Supreme Court ruled that a Yakima court misused its powers of contempt when it sentenced two girls to excessive time in jail (30 and 60 days respectively) for running away from foster care. The ruling agreed with an ACLU-WA brief in support of the girls' rights.

Passing the Torch

For liberty to be preserved, we must nurture it. The ACLU-WA strives to prepare the next generation of civil liberties activists, so they are inspired to become guardians of liberty.



The next generation of civil liberties activists.

A highlight of our work with youth is the Student Conference on Civil Liberties, held in March at the University of Washington. The conference drew 125 spirited high schoolers and their teachers for a day of learning and sharing views. Workshops explored Censorship, MySpace and Civil Liberties, Gay-Straight Alliances, the School-to-Prison Pipeline, Immigrant Rights and Activism 101.

The ACLU-WA currently has nine student clubs that engage college and high school students in activism, outreach to other students and educational events.

RACIAL



**"Injustice
anywhere is a
threat to justice
everywhere."**

— MARTIN LUTHER
KING, JR.

JUSTICE

Education: Still Separate, Still Unequal

Although Washington is obliged by its constitution to provide all children a basic education, it fails to do so for more than one in five high school-age youth: 21 percent of Washington's children drop out – or are pushed out – of school without a high school diploma. Students of color are especially impacted. And students who do not graduate from high school are more likely to be unemployed, living in poverty or in prison.

The ACLU-WA's education equity project seeks to remedy these inequalities. It challenges policies that channel minority students out of school and into the criminal

justice system, policies that create a "school-to-prison pipeline." Our focus has been on disparities in enforcement of discipline, problems with police in school, and discrimination and harassment faced by minority students.

In 2007-08, the ACLU-WA sent staff to the Tri-Cities area for six months to research the problems there and to provide information and support to parents and students in Latino communities.

Instead of addressing the factors that cause students to miss school, schools all too often pursue truancy actions that result in young people being pushed into the juvenile justice system. ACLU-WA staff attorneys have completed a comprehensive practice manual for attorneys representing youth in truancy cases. The manual has gained national attention, and will be available on the website for the American Bar Association's Center on Children and the Law.

Fairness on Juries

The right to a fair trial includes the right to a jury that is representative of the community and free from bias against a defendant because of his or her race or



ethnicity. The ACLU-WA filed an amicus brief with the Washington Supreme Court last year questioning the fairness of a death penalty jury that excluded African Americans in the trial of two black men.

In the case, the prosecution kept an African American woman – the last African American in the pool – from serving on the jury. The prosecution said it excluded the woman because she had a master's degree in education, was a social worker, and had friends or relatives who had been arrested and served time. Yet the prosecutor did not challenge other jurors with similar backgrounds.

The ACLU-WA pointed out that the requirements for evaluating potentially race-based juror exclusions were not followed in the case. In April 2008, the court declined to reverse the convictions of the defendants, but it did agree that the exclusion of an African American may be discriminatory on its face in some situations. The court also reiterated its strong support for the right to a jury trial under the state constitution.



2007-2008

LEGAL HIGHLIGHTS



DRUG POLICY

York v. Wahkiakum School District

After nine years, the ACLU-WA won its case with the Wahkiakum School District over a policy of random suspicionless drug tests for all students in the junior high and high school who wished to participate in extracurricular sports.



FREE SPEECH

Berger v. City of Seattle

Seattle Center has enacted restrictive new rules governing speech in public places, including the restriction that no one is allowed to engage in "speech activities" within 30 feet of any "captive audience," a term defined as anyone standing in line or eating. The ACLU-WA submitted an amicus brief in support of the plaintiff's petition for rehearing, which the court granted.



RACIAL JUSTICE

State v. Babbs

The ACLU of Washington submitted an amicus brief to the Washington Supreme Court, which found that counsel may not use "peremptory challenge" to remove a juror because of his or her race.



RIGHT TO PRIVACY

Bellevue John Does 1-11 v. Bellevue School District #405

The *Seattle Times* filed Public Records Act requests and received all records of allegations of sexual misconduct by any teachers within the last ten years. The ACLU-WA submitted an amicus brief to the Washington Supreme Court, which agreed that the identity of teachers should not be disclosed in cases of unsubstantiated allegations.

STUDENTS' RIGHTS

Student Truancy Case

The ACLU-WA and TeamChild represented a student in an appeal in which the district dismissed truancy proceedings against the student and agreed that remedial efforts should be made in every student's case before a truancy petition is filed.



LGBT RIGHTS

Witt v. Air Force

The ACLU-WA is representing Major Margaret Witt, a flight nurse with many commendations and 19 years of service, who was discharged from the Air Force on grounds of homosexual conduct. The Ninth Circuit Court of Appeals found that before discharging a soldier, the military must prove that the individual's conduct hurt morale.



IMMIGRANT RIGHTS

Roshandel et al v. Chertoff et al

The ACLU-WA and the Northwest Immigrant Rights Project won a federal lawsuit on behalf of several Seattle-area residents who had applied for citizenship, but had waited months or years for the government to approve or deny their applications.



WOMEN'S RIGHTS

Hegwine v. Longview Fibre Co.

The Washington Supreme Court unanimously ruled that the company broke state laws against sex discrimination since the job applicant was refused a job because of her pregnancy. The decision agreed with a brief by the ACLU-WA and the Northwest Women's Law Center urging the court to treat the woman's firing as an instance of sex discrimination.



2007-2008

LEGISLATIVE HIGHLIGHTS



LGBT RIGHTS

Domestic Partnership Rights HB 3104, SB 6716

The ACLU-WA supported successful legislation that added dozens more legal protections for domestic partners. The bill provides greater financial security for same-sex couples by establishing community property rights, probate protections and joint responsibility for debts, and other protections.



WOMEN'S RIGHTS

Gender Equity in Community Athletics – HB 3001, SB 6547

The ACLU-WA backed legislation to provide protections against gender discrimination in local and regional sports programs and facilities. Though the bill did not get to a floor vote, it got legislators talking about the importance of gender equity in sports. We will continue to work for its passage next year.



STUDENT RIGHTS

Limits on the Use of Physical Restraints on Students HB 2884, SB 6418

Schools increasingly rely on pepper spray, handcuffs and other restraints to control students. The ACLU-WA supports this legislation to restrict the use of such restraints by school officials to situations where a student seriously threatens people or property, and only after all other means of control have been used. After passing the House by a comfortable margin, the bill stalled in the Senate.

RIGHT TO PRIVACY

Forbidding the Capture of Signals From Enhanced Driver's Licenses SHB 2729

The ACLU-WA supported this bill which makes it illegal to possess, read or capture remotely the signal on a person's enhanced driver's license without that individual's express knowledge and consent. The bill will also prevent public disclosure of documents presented by users to get the new license.



REPRODUCTIVE RIGHTS

Refusing Federal "Abstinence Only" Funding HB 2698, SB 6305

Washington's Healthy Youth Act requires school districts that provide sex education to teach only medically accurate information, and to include knowledge about contraception and sexually transmitted diseases. But recently, the federal government changed its rules to require states to use federal sex education funds solely for "abstinence only" programs. Current law requires the state Department of Health to accept this money.



We worked with allies on this bill to make applying for the federal funding optional. The bill passed in the Senate, but did not get a House vote.

RIGHT TO PRIVACY

Electronic Data Recorders in Motor Vehicles SB 6341

Electronic data recorders are routinely being installed by car manufacturers to collect information about car operations and driving behaviors. The information can be downloaded manually or sent wirelessly to a central communications system. The ACLU-WA supported legislation to provide vehicle owners with notice of the presence and operation of electronic data recorders, allowing them to choose whether third parties can access information on electronic data recorders. The bill stalled in the House amid the time pressures of the short session.



VOTING RIGHTS

Unfair Obstacles to Restoring Voting Rights

The ACLU-WA believes that the fundamental right to vote belongs to every adult citizen and must never be conditioned on gender, ethnicity or wealth. But Washington laws take away the right to vote for persons in prison, and make it very difficult to get it back. Some people are disenfranchised only because they are poor, and those disproportionately are people of color. The ACLU-WA is working to reform this unfair system.

Citizens in our state with a felony conviction can regain voting rights only after completion of their prison term and full payment of all court-imposed penalties, fees and accrued interest. In practice, this disenfranchises thousands of people who lack the means to pay off their debts.

Further, the system to restore their right to vote is complicated and cumbersome, with different requirements depending on when and where a person was sentenced.

Unfortunately, when our legal challenge made it to the Washington Supreme Court last summer, the court did not agree that the state's



voting restoration system is unconstitutional because it favors those with money. But we have continued to seek reform through the legislature. In the 2008 session, an ACLU-drafted measure would have automatically restore the right to vote for people upon release from prison. While the bill did not pass, it has picked up increasing support, and we will continue to press for its adoption in the next session.

In the meantime, our Voting Rights Restoration project continues to assist people who have paid all their legal financial obligations in navigating the difficult process to regain the franchise. Since it began in 2004, volunteers have helped more than 125 people regain their voting rights.

“It’s not the hand that signs the laws that holds the destiny of America. It’s the hand that casts the ballot.”

— HARRY TRUMAN

GOVERNMENT AND RELIGION

“It behooves every man who values liberty of conscience for himself, to resist invasions of it in the case of others.”

— THOMAS JEFFERSON

School Funding for Clubs

Students in public schools have the right to form clubs. But that does not require schools to provide funding and other benefits to clubs that discriminate.

The ACLU-WA defended this principle in backing school officials in a lawsuit involving the Truth Bible Club, which sought an exemption from Kentridge High School’s nondiscrimination rule. The student-run club met at the school, with the approval of the administration. However, since the club limited formal membership to Christians, school district officials turned down the club’s request for school sponsorship and funding, because the



club’s membership rules violated district policies banning religious discrimination in student activities. The club members sued, claiming that the school violated their rights to religious freedom.

In federal district court, and then again in appeals court, the judges backed the school district and found that the Bible club unfairly discriminated against students of other religions. Then, in April 2008, the court revised the opinion. While agreeing that the Kent School District acted correctly, it sent the case back to the district court for further fact finding to determine whether the club should be exempted from the non-discrimination policy.



CRIMINAL

**"The police must
obey the law while
enforcing the law."**

— U.S. SUPREME COURT
CHIEF JUSTICE
EARL WARREN



JUSTICE

Defending the Poor in Court

When the government prosecutes impoverished individuals, it must provide them a capable lawyer with the resources to present an adequate defense. The ACLU-WA and Columbia Legal Services (CLS) are in year four of efforts to reform Grant County's woefully inadequate public defense system.

In 2005, the ACLU-WA and CLS obtained a favorable settlement in a suit on behalf of people who were charged with felonies but not provided with effective assistance of counsel. The county agreed to reduce the number of cases each lawyer was expected to prepare, assign only qualified lawyers to serious felony cases, and provide adequate funding for investigators and expert witnesses.

While the county has made some improvements to its public defense system, it still has not hired enough attorneys to serve indigent defendants, has exceeded attorney workloads, and has committed other significant violations. The ACLU-WA and CLS have asked a monitor to issue findings on violations of the settlement in 2007 and 2008, and to recommend that the county cure these violations promptly.

Ending Unjustified Arrests

In March, the ACLU-WA called upon Seattle Police Chief Gil Kerlikowske to adopt several recommendations to prevent unjustified arrests for obstructing a police officer, a charge that should be used only against bystanders who are interfering with police actions. In practice, police have been arresting far too many people without cause. According to an investigative report by the *Seattle Post-Intelligencer*, nearly half of the 1,090 people arrested for obstruction between 2002 and 2007 were never charged, had their cases dismissed, or were found not guilty by a jury. African Americans were eight times more likely to be arrested for obstruction than whites.

The ACLU-WA urged the chief to better train officers on de-escalation tactics, to adopt a department policy supporting the rights of onlookers and to keep better track of obstruction arrests. In June, Kerlikowske issued a directive to all Seattle police officers stating, "...citizens are permitted, with a few exceptions, to remain as onlookers and/or photograph officers in the field performing their duties."



Roadblocks Blocked

Gov. Chris Gregoire requested that the 2008 legislature pass a bill authorizing judges to issue "area warrants" that would allow police checkpoints on a given stretch of highway, to inspect for intoxicated drivers. The ACLU-WA objected to the proposal as an intrusive fishing expedition that would violate the rights of law-abiding motorists.

The measure did not get out of committee. Many legislators clearly understood its constitutional flaws, and recognized there are other methods for addressing drunk driving short of stopping all cars in an area.

WAR



**"Whenever the offence
inspires less horror than
the punishment, the rigor
of penal law is obliged to
give way to the common
feelings of mankind."**

—EDWARD GIBBON,
*THE DECLINE AND FALL OF
THE ROMAN EMPIRE*, 1776

ON DRUGS

Let's Talk About Marijuana Laws

"The most dangerous thing about marijuana is to be arrested for its possession or use." That assertion by noted pharmacologist John Morgan is one of many thought-provoking statements in a new ACLU-WA video detailing the history of marijuana prohibition and its devastating effects on civil liberties.

Our nation spends an estimated \$7.5 billion annually to enforce marijuana laws. In 2006 alone, 830,000 people were arrested for marijuana offenses, and the overwhelming proportion of the arrests – 89 percent – was simply for possession. Enforcement clogs our courts and criminal justice system, diverting resources from serious crimes against people and property.

"Marijuana: It's Time for a Conversation" encourages people to think about whether our marijuana laws are working for us or against us – whether they're doing more harm than good. Hosted by travel writer Rick Steves, the program features interviews with scholars, doctors, judges, police, medical marijuana users and victims of marijuana enforcement. The show has won five broadcast industry



awards and has been broadcast on KONG and KING. By early fall the video had been viewed via Comcast On Demand more than 28,000 times.

The video is part of a multimedia campaign that includes a fact-filled website, MarijuanaConversation.org, that offers extended interviews, an interactive quiz and information for obtaining DVDs of the video and a free educational booklet. By early fall, the site had received more than 186,000 hits.

Privacy of Medical Records

Since 1998, thanks to a voter-passed initiative, people in Washington with debilitating illnesses have the legal right to seek relief through medical marijuana. But one stumbling block has been the fear that since use of marijuana still is prohibited by federal law, the federal government could use patient medical records to prosecute medical marijuana patients or those who help them.

A federal court in Yakima has made that prospect less likely. In September 2007, the U.S. District Court for Eastern Washington rejected an effort by the feds



Travel writer Rick Steves engages the audience in the ACLU-WA video "Marijuana: It's Time for a Conversation."

to obtain copies of medical files kept by The Hemp and Cannabis Foundation Medical Clinic (THCF). The clinic maintains offices in 11 states where patients can be seen by doctors who specialize in the medical use of marijuana.

In May 2007, a federal grand jury issued subpoenas to the state of Oregon's medical marijuana program and to the THCF, demanding applications for registration, doctor recommendations and other documents for 17 medical marijuana patients.

The ACLU-WA challenged the government's request for being too broad. Releasing the records would threaten sensitive information about the patients' conditions, and would violate doctor-patient confidentiality.

In its September ruling throwing out the subpoenas, the court found that the need to protect the privacy of patients outweighed the government's need to access the records.

WOMEN'S RIGHTS



Pregnancy No Reason to Discriminate

Discrimination is still a very real experience for many women seeking employment, especially if they are pregnant. Last year, the ACLU-WA filed a friend-of-the-court brief with the Washington Supreme Court to help ensure that pregnant job applicants are treated fairly by employers.

In 2001, Stacey Hegwine received a job offer to be an order checker for the Longview Fibre Company, then was not hired after the company learned she was pregnant. Longview Fibre said that Hegwine was not given the job because it required her to lift too much weight

for her ability, even though the job description did not specify any such requirement. Hegwine sued over her unfair treatment.

In November 2007, the Washington Supreme Court unanimously ruled that the company broke state laws against sex discrimination since she was refused a job because of her pregnancy and was asked about her pregnancy status before being hired. The decision agreed with a brief by the ACLU-WA and the Northwest Women's Law Center urging the court to treat the woman's firing as an instance of sex discrimination. The court rejected the company's argument that cases of discrimination based on pregnancy should be decided under state laws banning discrimination because of disability.

Fair Play for Female Athletes

2007 marked the 35th anniversary of the federal Title IX law that opened education and school athletic opportunities to girls and women previously held back by gender discrimination.

Marking the occasion, the ACLU-WA partnered with the national Women's Sports Foundation to educate the community about the importance of Title IX and the need to extend its protections to community athletic programs.

The ACLU-WA issued a guide for families and students about gender equity in athletics.

We also conducted a Web survey about the experiences of women and girls in athletics. It found that in many regional and local sports leagues and programs, girls and women frequently are relegated to the worst-maintained fields, the most undesirable practice or play times, and the least experienced referees. In some areas, females are even denied the opportunity to participate on teams.

In the 2008 legislature, the ACLU-WA backed legislation to provide protections against gender discrimination in local and regional sports programs and facilities. The measure would have ensured that local agencies are held to Title IX's anti-discrimination standards. Though the bill did not get to a floor vote, it got legislators talking about the importance of gender equity in sports. We will continue to work for its passage next year.



Financial report

The ACLU of Washington and the ACLU of Washington Foundation are separately incorporated nonprofit organizations. The ACLU-WA is our legislative lobbying organization, supported by membership dues which are not tax-deductible. The ACLU-WA Foundation is our tax-deductible arm and conducts litigation, research, and public education in support of civil liberties.

Membership

Since 9/11, ACLU-WA membership has skyrocketed, demonstrating that Americans understand the importance of the role the ACLU plays in defending the Bill of Rights. ACLU membership in Washington state continues to be among the highest in the country at more than 20,000.

Annual Fund Campaign

We are grateful to the stellar fundraising efforts of the ACLU-WA Board of Directors and Ambassadors. We especially appreciate the invaluable leadership of the ACLU Development Committee: Suzanne Holland, Jean Robinson, Eve Enslow, Chris Gamache, Doug Klunder and Jesse Wing.

The DeSilver Society

The DeSilver Society invites and recognizes dedicated citizens who help protect the future of freedom, fairness and equality by designating the ACLU in their will, trust, retirement plan, insurance plan or other planned gift. Albert DeSilver, one of the ACLU's founders, provided more than half of the organization's annual operating funds during his lifetime. We are proud to have nearly 200 DeSilver Society members in Washington.

The Legacy Challenge

Defend freedom today with your gift for the future. Through a generous challenge grant from the Robert W. Wilson Charitable Trust, when a donor notifies us for the first time that they have established a planned gift, the Trust will make a cash donation of up to 10% of the future's gift value, with a maximum match of \$10,000. The Legacy Challenge will expire in May 2009. Please contact our Planned Giving Director for more information about supporting the ACLU-WA in this way.

Ways to Give

CASH OR CREDIT CARDS Monthly, quarterly, or other installment schedules are welcome.

GIFTS OF STOCK By giving appreciated securities, you can usually deduct the full fair market value of the stock and avoid capital gains tax.

WORKPLACE GIVING If your employer has an employee giving campaign, payroll deduction is an easy way to make a tax-deductible donation.

MATCHING GIFTS Many companies match charitable donations of employees. If your employer has a matching gift program, please designate the ACLU-WA Foundation.

HONORARY AND MEMORIAL GIFTS You can honor or memorialize someone special through your gift and include a personal message that we will send to the person or family.

GIFT MEMBERSHIPS Share your commitment to civil liberties with a friend or family member through a gift membership.

RETIREMENT ACCOUNTS When you designate the ACLU-WA as a beneficiary of your IRA, 401K, or other retirement plan, you may avoid estate tax and income tax.

LIFE INSURANCE By naming the ACLU-WA Foundation as the owner or beneficiary of a life insurance policy, you may generate a charitable income tax deduction equal to the current value of the policy.

BEQUESTS If you provide for the ACLU-WA Foundation in your will, you will support our programs and may reduce the estate tax.

LIFE INCOME PLANS A gift annuity, pooled income fund, or charitable remainder trust pays income to you or another person over time and may provide a charitable income tax deduction.

More information on ways to give to the ACLU-WA can be found at www.aclu-wa.org or call us at (206) 624-2184.

2007-2008

revenue & expenditures

(unaudited)*

ACLU of Washington Foundation

Support & Revenue

Annual Fund Campaign	1,281,116
Workplace Giving	162,897
Miscellaneous	31,691
Endowment Fund Income	295,449
Transfers from Designated Funds.....	777,405
<i>Less sharing with National ACLU</i>	<i>(186,840)</i>
Total	2,361,718

Expenses

Communications Program	452,987
Legal Program	664,230
Field Program.....	111,272
Drug Policy Reform Project.....	476,072
Liberty & Technology	88,482
Development.....	471,318
Management & General.....	299,803
Total	2,564,164

ACLU of Washington

Support & Revenue

Membership	508,834
Annual Fund Campaign	65,476
Miscellaneous	1,327
Transfers from Designated & Restricted Funds	12,000
Add sharing with National ACLU	12,861
Total	600,498

Expenses

Communications	54,380
Legislative & Field Programs.....	287,998
Fundraising	17,474
Board Governance	29,587
Management & General.....	68,246
Total	457,685

*Audited statements available from the ACLU-WA office in the fall.

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