

**American Civil Liberties Union of Washington  
Annual Report 2006**

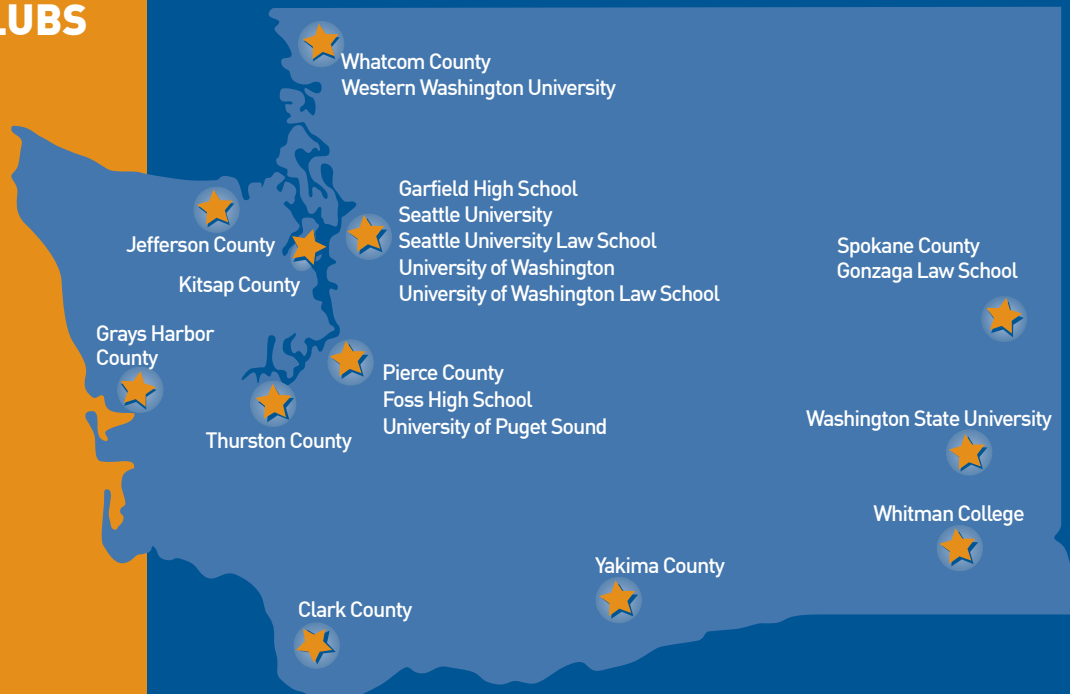
**Standing **UP**  
for Freedom**



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## WASHINGTON CHAPTERS & STUDENT CLUBS



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# Dear Friends:

**S**omething remarkable happened in Washington, D.C. on June 29. On the last day of its term, the U.S. Supreme Court ruled in the case of Hamdan v. Rumsfeld that the President exceeded his powers when he set up secret military tribunals for prisoners at Guantánamo, in violation of U.S. law and the Geneva Convention. In one of the rare occasions since Sept. 11, another branch of government stood up to the executive.

Under the guise of war powers and with the passive participation of Congress, the Bush administration has indefinitely detained American citizens without charges; it has tapped the phones and e-mails of thousands of Americans and mined the phone records of millions without warrants or legal permission; it has run secret prisons abroad, kidnapped innocents and engaged in torture; it has refused to answer questions or to release information about its activities, branding those who dissent as traitors.

And that's why the ACLU has been very aggressive in its opposition of the runaway presidency; fighting on behalf of liberty by educating the public, pursuing legislation, organizing thousands of members and supporters, seeking public records and filing lawsuits.

Washington state has seen its share of recent abuses of power in the name of national security. Shimrote Ishaque, an Edmonds pharmacist and a practicing Muslim, has been repeatedly stopped and held for hours at airport and border checkpoints (once at gun-point), because he's incorrectly listed in a government database of terror suspects. Abdul Ameer Yousef Habeeb, an Iraqi refugee living in Kent, was arrested by immigration officers in Montana, stripped, questioned, threatened with deportation and held for eight nights, despite having broken no laws. Our state is under a federal unfunded mandate to convert all driver's licenses into national ID cards by 2008, at a cost of \$250 million.

Washington also faced homegrown threats to personal freedom, particularly against the poor and disadvantaged. Thousands of people with past felony convictions continue to lack the right to vote, because they are too poor to pay off court-imposed debts. Countless indigent defendants in many local counties are still not getting fair trials thanks to inadequate, underfunded and overburdened public defender systems.

The ACLU of Washington took action to address all of these abuses. But when it comes to civil liberties, we don't just play defense. We have tripled the local ACLU staff devoted to ending the misguided and discriminatory War on Drugs. We continue to reach out to people who care about civil liberties with active chapters, dynamic student clubs and high-profile events with nationally recognized speakers.

Working for liberty at times feels like throwing rocks at the ocean. But remember that even a small pebble makes ripples. And some rocks, like the Supreme Court's decision in Hamdan, really shake up the waters. So here's to hoping that with the help of our dedicated members, and the backing of the law and the Constitution, we can make enough waves to eventually change the tide.



Timothy Kaufman-Osborn  
Board President



Kathleen Taylor  
Executive Director

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# Homeland SECURITY

Passed by Congress in a rush after 9/11, the USA PATRIOT Act has come to symbolize threats to freedom in the name of national security. The 342-page law greatly increased government powers to conduct surveillance actions and secret searches without suspicion of a crime being committed. The ACLU led a vigorous and protracted lobbying campaign to reform the Act.

Nevertheless, Congress in March 2006 reauthorized with scant changes to more than a dozen provisions of the law that were scheduled to expire. The ACLU took some solace from the fact that, this time, at least there was serious debate in Congress. And thanks went to our state's three lawmakers who voted against renewal: Senator Patty Murray and Representatives Jay Inslee and Jim McDermott.

The PATRIOT Act is only one in a series of measures in the war on terror that have seriously eroded civil liberties. Now the ACLU is focusing a spotlight on abuses of power—actions neither approved by Congress nor having any meaningful accountability. Our work is to rein in an out-of-control government and restore the rule of law.

## NSA WIRETAPS

In December 2005, the *New York Times* sparked a political firestorm by revealing that the National Security Agency was operating a large-scale surveillance program without legal authority. Authorized by the President just after 9/11, the spying program allows the NSA to intercept vast quantities of the international telephone and Internet communications of innocent Americans without court approval.

Attorney General Alberto Gonzales defended the administration's actions by citing the President's "inherent powers" as commander-in-chief in time of war, and further asserted that authority for the program came from the congressional resolution authorizing military action in Afghanistan. Rebuttals came from both sides of the aisle in Congress, with Republican Senator Arlen Specter observing succinctly "...he's smoking Dutch cleanser."

The ACLU sharply criticized the Bush Administration for acting outside the law and called upon Congress to fulfill its responsibility to serve as a check on unbridled executive authority. The ACLU pointed out that the 1978 Foreign



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"I wonder if Putin and his KGB comrades chuckle over the irony that in the end, totalitarianism may ultimately triumph over free societies, not the other way around as we have been led to believe since 1989."



ACLU Privacy Project Director Doug Klunder testifies before the State Utilities and Transportation Commission asking them to investigate possible violations by phone companies in Washington.



John W. Dean, former legal counsel to President Nixon, and Lisa Graves, ACLU senior counsel for legislative strategy, share a laugh at an ACLU-sponsored forum on illegal spying (photo by Nels Peterson).

Intelligence Surveillance Act (FISA)—adopted in response to revelations of government abuses—provides a clear and exclusive means for gathering of domestic intelligence on threats to national security. The law requires the federal government to obtain permission from a secret court before tapping the phones or other communication of U.S. citizens.

To educate the public about the dangers of unchecked government, we sponsored a forum in May 2006 featuring Senior ACLU Legal Counsel Lisa Graves and John Dean, former legal counsel to President Nixon.

## PHONE DATA MINING

Another bombshell came from the media in May. *USA Today* reported that three phone companies—AT&T, BellSouth and Verizon—were providing the NSA with customer call records. The article reported that the phone companies allowed access to information from billions of telephone calls made by millions of residential phone customers without customer consent and without legal authority.

Soon after these revelations, we asked the state Utilities and Transportation Commission (UTC) to investigate possible violations by phone companies here in Washington. Both federal and state laws require protection of the privacy of customer records, which can only be shared with another party with customer consent, or with a warrant or other legal process. To rally support, the ACLU ran full-page ads in several major newspapers, including the *Seattle Times* and the *Post-Intelligencer*.

ACLU-WA Privacy Project Director Doug Klunder testified before the UTC in Olympia and submitted written comments outlining its authority to investigate. Countering government and phone company

assertions that state secrets would be at risk, Klunder explained how an investigation could be pursued without compromising national security. He pointed out that the UTC could settle the issue by examining the phone companies' own business records without using detailed classified information.

By the end of June, the commission had received more than 400 e-mails supporting the call for an investigation, and 4,000 people had signed an ACLU petition. The commission is currently considering whether to investigate.

## SURVEILLANCE OF PEACE GROUPS

Evidence of government spying of peaceful groups led the ACLU-WA in March 2006 to file requests for public records on behalf of itself and 11 other organizations across the state. The Freedom of Information Act (FOIA) request seeks records of surveillance by the FBI, the Department of Defense, and the Seattle Joint Terrorism Task Force.

The requests are part of a national ACLU investigation of the surveillance of political groups under the guise of the war on terror. Documents obtained thus far have shown that the FBI and local police infiltrated political, environmental, anti-war, and faith-based groups. In Pennsylvania, the FBI investigated gatherings of a peace group just because the organization opposed the war in Iraq. In Georgia, the FBI and local Homeland Security officials spied on vegans picketing against a meat store in DeKalb County. In Santa Cruz, Calif., college students protesting military recruiters on campus ended up as a "credible threat" on a Pentagon surveillance program database.

In Washington, the ACLU-WA uncovered evidence of local spying in September 2005, when it received government records it had



Abdul Ameer Yusef Habeeb is represented by the ACLU in an ethnic profiling case against the U.S. Government that is currently under review in the 9th Circuit Court of Appeals.

requested on behalf of Glen Milner of Ground Zero, a Bangor-based nonviolent group that opposes the use of nuclear weapons. The files showed communications between the FBI and other agencies about Ground Zero's plans to ride small boats in Elliott Bay to protest the Navy fleet, which was scheduled to dock there during the 2003 summer Seafair festival.

The monitoring showed an inappropriate and wasteful government interest in groups that have no history of violence. For example, an e-mail in the released files noted that the Raging Grannies, a group of elderly peace advocates who sing at events, had attended a potluck held by Snohomish County Peace Action of Edmonds.

## HARASSMENT AT THE BORDER

In June 2006, the ACLU announced a national class-action suit against the Department of Homeland Security, the FBI and the Immigration and Customs Enforcement for repeated harassment of people wrongly included on terrorist "watch lists."

Joining the suit was an Edmonds pharmacist who was detained at gunpoint at the Canadian border, even though he has no ties to terrorism. On Jan. 29, 2006, Shimrote Ishaque, a U.S. citizen of Pakistani origin and an observant Muslim, was driving through the

border checkpoint at Blaine. He handed his passport to the officer at the booth, who ran a computer check of the ID number. After reading his computer screen, the officer drew his pistol, pointed it at Ishaque, and ordered him to get out of the car. His car was quickly surrounded by more than 20 other officers, many with guns drawn.

Inside the building, Ishaque was told that he was being held because the computer identified him as "armed and dangerous." After being detained for 90 minutes, Ishaque was released. When he asked if he should expect similar treatment at the border in the future, he was told that it could not be ruled out.

It wasn't the first time that Ishaque has been harassed by customs or immigration officers. In June 2004, he and several friends were detained at the Blaine checkpoint for four hours. Later that year, Ishaque was held for four hours at SeaTac airport when returning from an Islamic conference in Trinidad. He was again stopped at SeaTac when returning from Pakistan in April 2005. Each time he was eventually cleared and allowed to reenter the country.

The ACLU lawsuit was filed in Federal District court in Chicago. It includes nine other citizens who have been subjected to repeated lengthy stops, questioning, body searches, handcuffing, excessive force, separation from family members and confinement by customs officers when they return to the United States. The suit seeks improvements to the FBI's Terrorist Screening Center, adoption of policies that

ensure expeditious reentry for citizens who pose no threat to safety, and improved training and supervision to ensure that citizens are not unduly detained and harassed. Representing Ishaque is ACLU-WA Staff Attorney Aaron Caplan.

According to a U.S. Department of Justice report, the process for classifying these individuals is flawed, resulting in many citizens being considered dangerous when they pose no real threat to our nation. None of the plaintiffs in the suit has ever been charged with a criminal act or been the subject of any indictment or action related to a terrorism investigation.

## ETHNIC PROFILING

In 2005, the ACLU-WA filed a lawsuit on behalf of Abdul Ameer Yousef Habeeb who was confined by government agents for eight nights, strip-searched and threatened with deportation, despite having broken no laws. Habeeb spent the whole time terrified that he would be sent back to Iraq, where his brother Abdallah was executed by Saddam Hussein's regime and his father died in a suspicious accident. Habeeb was himself imprisoned twice in Iraq, and his hands and face still bear torture scars. Unfortunately, the court dismissed the case in June 2006, finding that government agents had not violated Habeeb's rights. The ACLU is appealing to the 9th U.S. Circuit Court of Appeals. Cooperating attorney Jesse Wing of MacDonald Hoague & Bayless is handling the case.

## LOYALTY OATHS REBUKED

The Washington state Combined Fund Drive (CFD) instituted a controversial requirement last year that forced participants to sign vague statements confirming that their organizations, officers, affiliates or funds do not support "terrorist or violent activity." The CFD program allows state employees to deduct money from their paychecks to fund charities and nonprofit organizations of their choice.

The ACLU-WA helped to convince the state that the certification requirement was a bad idea, because it amounted to a demeaning and ineffective "loyalty oath" similar to anti-communist oaths common during the McCarthy era. Such oaths have been found unconstitutional by the U.S. Supreme Court. The certification requirement forced charities



ACLU plaintiff Shimrote Ishaque has been repeatedly harassed at the border and at airports, because he is incorrectly listed on a terror watch list.

to spend time and money checking their directors, officers, affiliates and flow of funds to ensure they do not support "violent" activities.

The requirement's language would have affected freedom of speech by penalizing charities that serve or hire persons who may have expressed support for groups targeted by excessive anti-terrorism policies. In particular, certification could have stifled the activities of charities serving religious or immigrant communities, many of which have been targeted by the government. In September 2005, the CFD dropped the certification requirement.

These certification requirements were the result of federal policies on employee giving campaigns. The Federal Combined Fund Campaign required charities to certify that they don't hire persons or support groups listed in government watch lists, which were notoriously inaccurate. But the national ACLU convinced the federal Office of Personnel Management (OPM) to drop the mandatory "list checking" requirement on nonprofits that want to participate in the federal workplace fund drive. After that decision, the ACLU withdrew its lawsuit against OPM filed on behalf of 13 national nonprofit organizations. ■

## THIS MODERN WORLD

by TOM TOMORROW



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# Freedom of SPEECH

“We had a great time marching, and yes, that was me in the Statue of Liberty costume. I especially enjoyed getting a hug from a man who said he’d always wanted to ‘embrace liberty’.”

## LET THE PEOPLE MARCH

**T**he freedom to protest peacefully by marching on the street is a long-cherished American right. This year the ACLU scored a partial success in its effort to reform the City of Seattle’s process for granting permits to march—a confusing system that gives police unfettered discretion to alter or revoke permits.

The ACLU is pursuing a lawsuit on behalf of the October 22 Coalition to Stop Police Brutality, Repression and the Criminalization of a Generation, a national organization that seeks attention for issues of police brutality. In 2003 the Seattle Coalition obtained a parade permit authorizing the group to march to a rally at Hing Hay Park.

On the evening of Oct. 22, approximately 80-100 people gathered at Seattle Central Community College to take part. When the group moved into the street to begin its march, a Seattle police officer summarily rescinded the permit. Without a permit, the participants had to march on the sidewalk and stop at all the intersections. Many participants were cut off from the larger group at intersection lights, limiting the march’s effectiveness.

In March 2006, U.S. District Court Judge Robert Lasnik ruled that the ACLU had raised sufficient questions to warrant a trial about whether the October 22 Coalition’s parade was forced off the streets because the police disagreed with its message. However, Judge Lasnik ruled also that the City’s parade ordinance was not unconstitutionally vague because it provided adequate guidance to the police chief in making a permit decision.

In June, in partial settlement of the lawsuit, the City agreed to pay \$47,500 to the October 22 Coalition to cover damages, attorney fees, and other costs for cancelling the group’s permit. The coalition will appeal its claim that Seattle’s parade ordinance is unconstitutionally vague. Representing the coalition are ACLU cooperating attorneys Michael Ryan and Christopher Varas of Preston Gates & Ellis and Staff Attorney Aaron Caplan.

## LET THE PEOPLE SPEAK

Government may not stifle free speech by citizens at public meetings, even when the speech discomforts public officials. A reminder from the ACLU helped curtail a local law that ignored this important principle.

In June 2005, the Pierce County Council passed an ordinance that forbid speakers before the council from making an “attack” or “allusion to the motives” of any council member.

The ACLU contacted the council, explaining the legal protections for the right of constituents to state their views during open comment periods. “Our Constitution protects the ability of all persons to speak their mind about public officials, even if what they have to say is unkind,” wrote Aaron Caplan, ACLU staff attorney. “It is the duty of elected representatives to listen to their constituents, not to silence them.”

Advocacy by the ACLU—and the uproar in the media caused by the attempted restrictions—resulted in a decision by the Pierce County Council to repeal the rule banning speakers from attacking the motives of council members.





ACLU supporters march with Lady Liberty at the Seattle Pride Parade.

## LET THE RADIO HOSTS TALK

Robust discussion of the issues of the day is essential to our democracy. In a case pending before the Washington Supreme Court, the ACLU is supporting the right of talk show hosts to express their views on the air about controversial political issues without these being treated as campaign contributions.

The No New Gas Tax political action committee sponsored Initiative 912 in 2005 to repeal gas taxes for transportation improvements. The committee is appealing a decision by Thurston County Superior Court that KVI-AM radio hosts Kirby Wilbur and John

Carlson made “in-kind” campaign contributions when they endorsed the initiative and requested donations on the air. The lawsuit was filed by San Juan County and three cities.

In its amicus brief in the appeal of the ruling, the ACLU argues that speech by talk radio hosts is not the same as paid advertisements and that to treat it as campaign contributions would violate First Amendment protections for free speech. Doing so would also make broadcasters and other media hesitant to talk about political issues before an election, out of fear that the state would force them to disclose reports and talk shows as political contributions.

Treating talk on radio as ads would be especially troubling in the



Book-It Repertory Theatre actors John Ulman (left) and Jose Abaoag perform at the ACLU's "Uncensored Celebration" marking Banned Books Week.

weeks immediately preceding an election, when state law limits the size of political contributions. This is also the time when broadcast and print media usually make political endorsements. For example, a radio program worth more than \$5,000 that endorses an initiative within 21 days of an election would violate state campaign laws. But a report that opposes the same initiative would not be considered an in-kind donation, and would be legal.

## LET THE CANDIDATES CAMPAIGN

Government officials should not be empowered to determine the truth or falsity of candidate statements made in the heat of a political campaign. Such statements are often open to interpretation, depending on one's viewpoint, and government itself is not an unbiased observer.

In June 2006, the Washington Supreme Court heard oral arguments in the appeal of an ACLU case that overturned the state's law that regulates the content of political candidates' statements. The ACLU is representing Marilou Rickert, a Green Party candidate

for state Legislature in 2002 who ran against incumbent Democrat Tim Sheldon of the 35th Legislative District. After winning the election, Sheldon filed a formal complaint with the Public Disclosure Commission claiming that Rickert lied about him in a flyer comparing her voting record and positions with his. The Commission fined Rickert \$1,000 for violating the state's law regulating political advertising.

Agreeing with the ACLU, the Washington Court of Appeals overturned the law. The law is too broad because it interferes with constitutionally protected speech and does not advance the state's interest in promoting integrity and honesty in the elections process. ACLU cooperating attorney Venkat Balasubramani is handling the case.

This is the second successful ACLU challenge of the state's attempt to regulate the content of campaign statements. In 1998 the Washington Supreme Court overturned an earlier version of the law. In that case, the government tried to penalize the I-119 Vote No! Committee for statements against a Death with Dignity initiative that failed to pass. ■



\*Chosen as 2006 Super Lawyer

**W**hen federal agents targeted the stores of innocent Somali merchants in south Seattle, ACLU attorneys won compensation for the wrongful raid. When police prevented peaceful demonstrators from wearing buttons and carrying signs during WTO, the ACLU challenged the free speech restrictions in court.

For these and other cases, the ACLU works with pro bono lawyers who share our commitment to freedom and fairness.

**EXCITING WORK, CUTTING-EDGE ISSUES** Fighting for civil liberties is exciting work. For more than 85 years, ACLU cases have set precedents, shaped policies, and reaffirmed constitutional principles. The ACLU of Washington has won precedent-setting cases involving student speech on the Internet, Grant County's inadequate public defense system, and the state's former music censorship law.

Among our 40-plus active cases, we represent an Iraqi political refugee living in Kent who was unlawfully arrested by federal authorities and 11 same-sex couples who are awaiting a Washington Supreme Court ruling on marriage. We recently argued before the state Supreme

Court against warrantless collection of DNA by police, and submitted FOIAs on behalf of a number of peace groups.

**THE ACLU RELIES ON THE PRO BONO EFFORTS OF LAWYERS WHO SHARE OUR COMMITMENT TO FAIRNESS AND EQUALITY.**

**VOLUNTEER LAWYERS, ACTIVE SUPPORTERS** Volunteer lawyers are integral to our efforts. Attorneys from firms both large and small litigate ACLU cases, write amicus briefs, analyze legislative proposals, and speak before community groups. They are among the half-million ACLU members and supporters who help protect freedom.

We invite you to work on inspiring civil liberties cases with our dedicated team. **Aaron Caplan** is a 2006 Washington Super Lawyer, and Legislative Director **Jennifer Shaw** has been named a Rising Star and a Super Lawyer. Harvard Law graduate **Nancy Talner** is our specialist in criminal due

process and administrative regulations. **Doug Klunder**, alumnus of Microsoft and the UW Law School and another Rising Star, leads our privacy and technology project. **Andy Ko** and **Alison Chinn Holcomb** spearhead our work on drug policy reform.

The Bill of Rights would only be well-meaning promises if people did not fight to protect it. Freedom can't protect itself. It takes a lot of time, resources, and dedicated volunteers. We are determined to make the promise of the Bill of Rights a reality for all people in America.

In each generation, people of conscience step forward to ensure that liberty survives. Join us.



AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON  
705 2ND AVENUE, 3RD FL.  
SEATTLE, WA 98104  
T:206.424.2104  
WWW.ACLU-WA.ORG

ACLU Attorneys highlighted in the June, 2006 issue of *Washington Law and Politics*.

# Students & YOUTH

## PASSING THE TORCH OF LIBERTY

“The highlight for me was learning that I have rights,” said one of the nearly 200 teens who attended the ACLU-WA’s 2006 Student Conference on Civil Liberties, held at the University of Washington in March. Features included dramatic readings by Book-It Repertory Theatre, skits by the GAP Theatre, spoken word performances by Youth Speaks, and an inspiring talk by two student journalists challenging censorship of their school newspaper.

The annual conference highlighted the activities of Passing the Torch of Liberty, the ACLU-WA’s program that brings alive the Bill of Rights for the next generation. ACLU speakers taught the importance of civil liberties to classrooms around the state, youths received our ever-popular “bust cards” on rights with police, and teachers received the latest news on cases affecting young people via our online Educators Network. In a new initiative, the ACLU-WA co-sponsored the Capitol Hill Block Party, where young music fans picked up literature at our booth after hearing local bands.

## DOG SEARCHES

In a trend that reflects the excesses of the war on drugs, some school districts are bringing in dogs to search students’ lockers and even their possessions—without suspicion that individuals are doing anything wrong. Working with Spokane’s Center for Justice, the ACLU succeeded in stemming this practice in a school district in eastern Washington.

The Nine Mile Falls School District began dog searches in 2004. Officials would place a school in “lockdown,” and dogs would be taken around the school, sniffing students’ belongings for contraband. The searches were intrusive and in many cases humiliating. The dog searches were very unproductive, with dogs reacting incorrectly 85 percent of the time.

The ACLU and Center for Justice let the school district know that such suspicionless searches violate the privacy protections of the Washington Constitution. In March 2006, with the two legal groups poised to file suit on behalf of a student and her parent, Nine Miles Falls decided to stop the dog searches until a court ruling determines their lawfulness. ACLU-WA staff attorney Aaron Caplan and Center for Justice staff attorney John Sklut handled this case.

## DRUG TESTING

Suspicionless drug testing programs invade student privacy and wrongly treat individuals as suspects when there is no evidence that they are using drugs. The ACLU is pursuing lawsuits against two of the handful of school districts in Washington that require students to undergo drug testing in order to participate in extra-curricular activities. In Cle Elum-Roslyn School District, the ACLU filed suit in September 2005 on behalf of several parents and students who object to the district’s new suspicionless testing requirement. Another plaintiff is a volunteer football coach who believes it is an ineffective policy likely to drive away some students who can most benefit from school activities. ACLU-WA staff attorney Aaron Caplan is handling the case.

Another ACLU legal action challenging drug testing was filed against the Wahkiakum School District in southwest Washington on behalf of two sets of parents, including a deputy Sheriff and a medical doctor. Unfortunately, a Wahkiakum County Superior Court judge ruled in June 2006 that the district’s policy does not violate the state constitution. The ACLU is considering an appeal. Cooperating attorney Eric Martin of Davis Wright Tremaine is handling the case.



Tristan Bullington receives the Youth Achievement Award at the 2005 Bill of Rights Dinner in recognition for his leadership in civil liberties awareness at Washington State University.



Representatives from ACLU-WA student clubs at Lobby Day (photo by Paul Sanders).

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## WORKING FOR TOLERANCE

Khalil Hassam, a senior at University Prep in Seattle who has worked to build tolerance and respect for diversity at his school, was one of nine students across the nation to receive the 2006 American Civil Liberties Union Youth Activist scholarship.

Hassam is the only Muslim at his school. He was moved to action after a speech at school by a representative of a Muslim group who made degrading comments about homosexuals. Realizing there was a need to educate and organize students to counter prejudice and discriminatory stereotypes, he joined the Gay-Straight Alliance at school that same day.

He went on to form the Coalition Against Apathy, a group that encourages students to exercise their freedom of expression and assembly. He spoke before student assemblies and assisted students who have been harassed. Additionally, through the Multicultural Student Alliance, Khalil educated others about Islam and about the importance of religious freedom and diversity.

## ACTIVISM ON CAMPUS

ACLU-WA campus activists make civil liberties a force in the lives of fellow students. New student groups formed at Seattle University and Gonzaga Law School this year, joining the ranks of ACLU-WA clubs at seven other colleges and two high schools.

The club at Washington State University hosted national ACLU Field Organizer Matt Bowles to discuss the effects of post 9/11 policies on students. The Seattle University Law School club sponsored a panel on

torture, surveillance and terrorism. ACLU-WA Board Members Doug Klunder and Dan Lerner were invited by the Western Washington University club to talk about wiretapping and privacy.

The UW Law School club held a marriage equality forum in February featuring Judy Gamache and Paul Lawrence, a plaintiff and one of the lawyers in the ACLU's lawsuit seeking legal marriage for same-sex couples. The Whitman College club sponsored a speech by a former Florida death row inmate who was exonerated. In Seattle, several hundred people attended an assembly on the death penalty organized by the Garfield High School ACLU-WA club.

## FIGHTING SPEECH WITH SPEECH

The First Amendment was created not to protect popular speech—popular ideas survive easily on their own—but to protect the expression of unpopular thoughts. With the help of an ACLU-WA student club, students at Western Washington University put this principle into practice. In April 2006, a group called the Center for Bio-Ethical Reform set up an anti-abortion demonstration at the WWU campus.

The group displayed photos of aborted fetuses, and of lynching and holocaust victims. They waved signs and distributed literature comparing abortion to genocide. Soon, there was talk of banning the anti-choice group from campus. But members of the WWU student club of the ACLU-WA organized a “speech-in,” bringing together the campus sponsor of the demonstration with other student groups opposed to its tactics. In the end, students agreed that censoring someone's message, simply because some don't like it, was not in the best interest of dialogue or the university community. ■

# LGBT RIGHTS



Air Force Major Margaret Witt at a press conference announcing her challenge to the military's attempt to discharge her.

## VICTORY AGAINST DISCRIMINATION

**B**eginning with the efforts of the late state Senator Cal Anderson, the ACLU has long worked with LGBT and civil rights allies to pass a state law barring discrimination based on sexual orientation. Momentum gathered for granting LGBT people legal protection from discrimination in employment, housing and other public accommodations.

The long-awaited success arrived in 2006. The margin of victory came when Senator Bill Finkbeiner (R-Kirkland), who opposed the measure last year, announced he would support it. The bill made it through the state Senate, and was signed by Governor Christine Gregoire.

The fate of the law was briefly in limbo, pending a campaign by professional initiative organizer Tim Eyman to place the measure on the ballot in November. On June 6, Eyman announced that he failed to collect the needed 112,440 signatures. The protections of the new law are now in effect, yet "ever vigilant" is the watchword. The ACLU and its allies are bracing themselves to counter a renewed drive to overturn the law in 2007.

## MARRIAGE EQUALITY

Same-sex couples make the same kinds of commitments to each other as other couples and need the many protections for their families that marriage provides. In a case closely watched by equal rights advocates across the nation, the ACLU challenged the state's ban on marriages between people of the same sex.

In *Castle v. State*, the ACLU represented 11 couples around the state. They include a police officer, a firefighter, a banker, a nurse, a retired judge, a college professor, a business executive, and others. The suit contended that limiting marriages to heterosexual couples is discriminatory, unfair, and denies gay and lesbian couples the protections guaranteed to all in the Washington Constitution.

In September 2004, Thurston County Superior Court Judge Richard Hicks agreed and ruled in favor of marriage equality. The state's appeal went straight to the Supreme Court, where it was combined with another successful challenge of the marriage ban filed in King County by the Northwest Women's Law Center and Lambda Legal Defense and Education Fund.

In July 2006, a sharply divided Supreme Court ruled by a 5-4 margin that the ban on marriage by same-sex couples does not violate the state constitution. Despite the disappointing decision, the ACLU will continue to work in both the legislature and the courts to gain full equality for lesbian and gay couples. Working for the ACLU on the case were Paul Lawrence, Matthew Segal, and Amit Ranade of Preston Gates & Ellis; Karolyn Hicks of Stokes Lawrence; Roger Leishman of Davis Wright Tremaine; and ACLU-WA staff attorney Aaron Caplan.

## FREEDOM TO SERVE IN THE MILITARY

Though the militaries of many major allies see no problem with allowing lesbian and gay soldiers to serve, the U.S. military stubbornly continues to resist equality. In a challenge to the military's discriminatory policy, the ACLU is seeking to prevent the discharge of a much-decorated Air Force officer who is lesbian.

Major Margaret Witt is a nurse assigned to McChord Air Force Base near Tacoma. During 18 years of service, she has received many honors, including the



Marriage Equality Plaintiffs Lauri Conner and Leja Wright make their way to the podium to receive their 2005 Civil Libertarian award at the Bill of Rights Celebration Dinner.

Air Force Commendation Medal for saving the life of a Department of Defense employee.

Major Witt did not talk to people in the military about her private intimate relationships. But in 2004, the Air Force notified her it was investigating an allegation that she had engaged in “homosexual conduct.” She was placed on unpaid leave, and in 2006 was notified that she would be subject to discharge proceedings. Oral argument in our lawsuit supporting Witt was heard in federal court in late June.

ACLU cooperating attorney James Lobsenz of Carney Badley Spellman is handling the case. In a previous ACLU case, Lobsenz represented Army Sgt. Perry Watkins, who challenged his dismissal from the military for being gay. In 1989, the U.S. Court of Appeals for the Ninth Circuit ruled that, as a matter of fairness, the Army could not discharge Watkins – the first time a gay soldier won a discrimination case against the military.

## PARENTAL RIGHTS

Washington has long recognized the rights of lesbian and gay couples

to raise children. A new court ruling has clarified matters by better defining what it means to be a parent.

The ACLU filed a friend-of-the-court-brief in support of Sue Ellen (Mian) Carvin, a woman who lived in a marital-like relationship with another woman for 12 years. The couple eventually had a child, carried to term by Carvin’s partner but cared for primarily by Carvin. But when the child was almost 6 years old, the couple separated. Carvin’s ex-partner eventually cut off all contact between Carvin and the child, so Carvin filed a petition for a declaration of parentage.

In November 2006, the Washington Supreme Court voted 7-2 to allow Carvin to argue in court that she is the “de facto” parent of a child that she helped to raise with the child’s mother. In its decision, the court recognized that a person can be a parent to a child even if she isn’t a biological or an adoptive parent. With the Supreme Court’s decision, the case goes back to a lower court for further review. Carvin was represented by the Northwest Women’s Law Center. Leslie Cooper of the ACLU LGBT Project and ACLU-WA staff attorney Aaron Caplan wrote the amicus brief. ■

# Racial JUSTICE



ACLU Legal Organizer Rose Spidell shows a Pendleton blanket given to her by the Colville Confederated Tribes for her advocacy on behalf of Native American students in eastern Washington.

## EDUCATION EQUITY FOR NATIVE AMERICANS

**F**or several years the ACLU has worked to address concerns about the treatment of Native American students in public schools around the state. Inadequate resources serve to deny students their right to an education. Unequal enforcement of discipline leads to higher dropout rates, and to more students entering the criminal justice system—creating a school to prison pipeline.

The problems are exemplified by the situation of students from the Colville Confederated Tribes in the Grand Coulee Dam School District in eastern Washington. Parents there reported that students wearing “Native Pride” gear were being sent home from school for purported gang affiliation. Native American students seemed more likely of being expelled or disciplined, when compared to students from other groups. Parents also complained that the district’s in-house police officer routinely interrogated children without notifying parents and pressured their kids to confess.

In 2006 the ACLU placed attorney Rose Spidell, a recipient of the prestigious Skadden Arps Fellowship, in the Grand Coulee area to investigate. Since March, she has been collecting information, educating parents about their legal rights, and organizing community leaders. In June, an ACLU-led community meeting in Omak about student rights drew nearly 50 people, including the incoming Grand Coulee Dam School District superintendent.

Analyzing materials from the school district, the ACLU found that Native Americans are disciplined out of proportion to their numbers. Further, Native American students are referred to juvenile court for truancy far more often than white students, and without adequate communication between the district and the student’s family.

The ACLU and the Colville tribal attorney sent a joint letter to the school district, requesting policy changes to ensure parents are notified when a police officer interrogates a child at school or removes a child from campus. The district’s board discussed the ACLU recommendations in June, and is expected to take up the issue again. In the meantime, the ACLU is planning more educational sessions for parents and students, and considering other strategies for remedying inequities.

## RACIAL DIVERSITY IN SCHOOLS

A racially mixed student body better prepares students to live in an increasingly diverse society and gives minority students a better chance at a quality education. With busing largely eliminated as a means of integrating schools, other tools are needed to address continuing racial segregation.

In a precedent-setting case that is going to the U.S. Supreme Court, the ACLU-WA is backing the Seattle School District’s use of race as a tiebreaker in pupil assignments. At issue is the district’s policy by which race is one of several factors in assigning students to schools when they receive more applications than available spots.

In October 2005, the 9th Circuit Court of Appeals upheld Seattle’s policy. In amicus briefs, the ACLU contends that a diverse environment is beneficial to education, and that it is fully consistent with the Constitution for the district to take race into account in school assignments. The U.S. Supreme Court has permitted race-conscious admission programs for public universities when a school has a compelling interest in ensuring the educational value of diversity and a narrowly tailored plan that avoids quotas or mathematical formulas.

The Supreme Court will hear an appeal of the case (*Parents Involved in Community Schools vs. Seattle School District*) in the fall of 2006. Cooperating attorney Paul Lawrence of Preston Gates & Ellis is writing the ACLU brief. ■



# Right to PRIVACY

## A REAL NIGHTMARE

Americans across the political spectrum have long opposed the creation of a national ID card, because of the threats it poses for privacy and personal freedom. National ID cards are, in essence, internal passports that allow government to monitor your activities, while creating huge, vulnerable databases of personal information.

Yet, despite opposition by the ACLU and without meaningful debate, Congress has adopted a form of a national ID card. Nestled into a 2005 bill to fund the war in Iraq was the REAL ID Act. Promoted as a way to make driver's licenses more secure and protect against terrorism, the Act creates a new form of identification that is not very secure and will be a nightmare for privacy.

The REAL ID Act requires the states to begin issuing new standardized driver's licenses by 2008. To obtain a license, a person will have to provide multiple documents in order to prove name, address, citizenship or immigration status—and each document must be verified by the state. The information in the new licenses must be stored in databases that are linked and available to other states and agencies. These licenses will become the only recognized form of government ID to fly in an airplane, enter a federal facility, and access many other opportunities.

The new cards will have standardized, machine-readable information, which could allow businesses to capture details about customers every time they check for ID. Because the driver's license databases in the entire country will be linked, a hacker could steal and misuse information from millions of people at a time. Currently, state databases are kept separate by each state, which makes them more secure.

The Act is an unfunded mandate. Each state must come up with its own funds to replace equipment, update software, hire and train staff to issue the new licenses. In Washington state, that cost is estimated at \$250 million over five years.

In the 2006 state Legislature, the ACLU lobbied for a resolution asking the federal government to repeal the act, and for restrictions in the capture and use of license information by businesses. While the measures didn't pass this session, the ACLU is speaking out on the impact of REAL ID and continues to press for its repeal.

## CHECK YOUR PRIVACY AT THE DOOR

Guests at motels expect privacy to mean more than having a "Do Not Disturb" sign to hang outside your door. But to law enforcement officials, motel guests give up their right to privacy just by signing a hotel registry.

In a case from Pierce County, the ACLU is challenging the practice of routinely examining the records of people staying in hotels, without a warrant or even suspicion of wrongdoing. Sheriff's deputies entered Timothy Jorden's room in March 2003 after examining the registry at the Golden Lion Motel in Lakewood and finding outstanding warrants in his name. The deputies found drugs in the room, and arrested him on drug charges. A trial court convicted Jorden, and an appeals court upheld the conviction.

In an amicus brief submitted to the Washington Supreme Court, the ACLU argued that allowing police to search hotel registries without suspicion of a crime violates the privacy guarantees of the Washington Constitution, and sets a dangerous precedent for making other private information public. The ACLU pointed out that giving police blanket access to hotel records could allow the government to keep a record of people's travels and match these with other travelers and events held in hotels to determine associations and interests. The ACLU is concerned that, in addition to Lakewood, there have been reports of hotel registry searches in Seattle, Fife and several other cities. ACLU-WA Privacy Project Director Doug Klunder wrote the brief and participated in oral argument held in January 2006. ■



Seattle artist Julie Paschkis created "Liberty Notes", a series of note cards celebrating the Bill of Rights and the Constitution. All proceeds benefit the ACLU. Purchase at: [www.juliepaschkis.com](http://www.juliepaschkis.com).

# Right to VOTE

“Please know that I will be remembering you all with prayers and good thoughts for a long time to come and with each vote I cast!”



Volunteers Mina Barahimi (left), Robert Wilhite, and Maria Elena Ramirez of the ACLU’s Voting Rights Restoration Project, which has assisted several dozen people to regain their voting rights. Their names are listed on the wall.

The right to vote is not reserved just for people with money. Indeed, courts have struck down poll taxes designed to disenfranchise people with limited means. Now the ACLU is working to end a modern-day form of the poll tax. Agreeing with the arguments of an ACLU lawsuit, King County Superior Court Judge Michael Spearman in March 2006 struck down the state’s requirement that ex-felons pay off all of their court-imposed fees and fines before they regain the right to vote. Most ex-felons are poor at the time they are charged, and don’t earn enough upon release to make a dent in their court debts—which accrue interest at 12 percent annually. The ACLU pointed out that the state should not hold hostage the right to vote in order to collect legal system debts.

Disenfranchisement is a widespread concern. More than 250,000 people in Washington cannot vote because of a prior felony conviction. And, given the racial disparity in Washington’s incarceration rate, the state disenfranchises almost 25 percent of all voting-age African-American males.

The ACLU’s class-action suit (*Madison v. State*) was filed in 2004 on behalf of three individuals who had served their time but could not vote because they owed money to the state. The state appealed the ruling to the Washington Supreme Court, which heard oral argument in June. Handling the suit are ACLU cooperating attorneys Peter Danelo, Molly Terwilliger, and Darin Sands of Heller Ehrman White & McAuliffe, ACLU-WA staff attorney Aaron Caplan, and Neil Bradley of the national ACLU Voting Rights Project.

In addition to the legal action, the ACLU has urged the Legislature to pass a bill that would grant ex-felons the right to vote upon release from prison. By simplifying the process for restoring voting rights, the measure would reduce some of the confusion about voting eligibility that plagued the 2004 governor’s election. Currently, ex-felons who pay off their debts have to go through nine separate steps to obtain the necessary records, forms, and signatures to apply for the right to vote. The legislation did not pass this session, and the ACLU will continue to work with allies for its adoption next year. ■

# Women's RIGHTS

In a highly publicized case from Spokane County, the ACLU helped confirm that a woman's right to divorce is not limited by pregnancy. In 2004, Shawna Hughes was married to Carlos Hughes, the father of two her children. After suffering from domestic violence that eventually sent Carlos Hughes to prison, Shawna Hughes filed for divorce. Her husband did not challenge the petition.

That summer Shawna Hughes became pregnant through a relationship with another man. And though a court commissioner signed the final orders to implement the divorce, Spokane County Superior Court Judge Paul Bastine decided to revoke the dissolution decree. In his oral ruling, the judge said that pregnant women could not divorce their husbands until after giving birth.

The ACLU and the Northwest Women's Law Center filed a friend-of-the-court brief in support of Shawna Hughes's right to divorce.

In August 2005, the Washington Court of Appeals found that the state cannot deny a pregnant woman that right because the state's Equal Rights Amendment "absolutely prohibits discrimination on the basis of sex." The state Legislature also passed an ACLU-backed bill that codifies the right of a pregnant woman to obtain a divorce. Board member Trilby Robinson-Dorn of Preston Gates & Ellis wrote the brief for the ACLU. ■

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**T**hank you to everyone here at the  
**ACLU** who strives to keep this  
**state—oh this wonderful state—**  
**free and just.**

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# Immigrant RIGHTS

## ACCESS TO SERVICES

The greatest threat to immigrants in Washington came from proposed ballot initiatives that targeted immigrants but would have affected all residents by curtailing access to public services and to the ballot box.

Initiative 343, a proposal modeled after Arizona's Proposition 200, would have forced people to show proof of citizenship or lawful immigration status in order to register to vote and to obtain public benefits. The ACLU worked with allies to produce educational materials and to spread the word. In the fall of 2005, proponents of I-343 failed to collect enough signatures for the measure to advance.

In the spring of 2006, anti-immigrant activists filed a new initiative for the fall 2006 ballot. Initiative 946 would have required state and local government officials to verify the citizenship of every applicant for non-federally mandated public benefits. As with I-343, this initiative called for prosecution of civil servants who don't report undocumented immigrants to federal authorities.

These initiatives would have threatened access to public services for



The ACLU's Binah Palmer (left) with Seattle Human Rights Commissioner Victoria Redstar at an immigration rights march.

all residents, not just immigrants without papers. The elderly and the poor, in particular, often don't have easy access to passports or birth certificates, so their access to health or assistance benefits would be at risk. Pregnant women and children were also not exempted from the initiatives' document requirements, cutting off access to vaccines and other crucial public health programs.

The ACLU worked as part of From Hate to Hope, a diverse coalition of immigrant advocates, churches, labor unions, voting rights advocates and communities of color to sway public opinion against I-946. Fortunately, when the July 7 deadline arrived, I-946 had not gathered enough signatures to make the ballot. However, the ACLU expects similar proposals to surface in the coming year. ■

“I dialed a wrong number the other day. I had already said, ‘This is Andy Ko from the ACLU. Is Mr. X available?’ To which the person who answered the phone replied, ‘I think you have the wrong number.’ Me: ‘Oh, sorry.’ Voice: ‘Well, if you’re from the ACLU, all is forgiven.’”

## FAIR TRIALS

Forty years ago, the U.S. Supreme Court ruled in the famous case *Gideon v. Wainwright* that the government must provide an attorney to criminal defendants who are too poor to afford one. Twenty years later, in *Strickland v. Washington*, the Court ruled that the right to counsel requires “effective assistance of counsel.” Yet the gap between principle and practice remains today.

A landmark settlement in a class-action suit brought by the ACLU and Columbia Legal Services is sending a strong message to counties statewide that they need to provide public defense systems that are fair and effective. Filed in 2004, the suit charged that Grant County operated a public defense system that regularly and systematically deprived indigent persons of the effective assistance of counsel. The county’s public defenders carried excessive caseloads and often were assigned cases they were not qualified to handle. All too often, defenders did not communicate with clients, did not interview potential witnesses, and failed to use investigators or experts.

In October 2005, Kittitas County Superior Court Judge Michael E. Cooper ruled that indigent defendants in Grant County had a well-grounded fear of not receiving effective legal counsel. A month later, Grant County agreed to settle the case by overhauling its public defense system—a groundbreaking outcome that has received national attention.

Under the settlement, the county is reducing excessive caseloads, guaranteeing that public defense lawyers are qualified to handle serious felony cases, and providing adequate funding for investigators and expert witnesses. The settlement also requires that a monitor ensure compliance by the county during the six-year term of the agreement—the first time a county public defense system in Washington will be subject to comprehensive monitoring.

The litigation team in this complex case included ACLU cooperating attorneys David Taylor, Breana Roos and Beth Colgan from Perkins Coie, ACLU staff attorney Nancy Talner, attorneys from Columbia Legal Services, and pro bono attorneys from Garvey Schubert Barer.

Other counties are taking note. To remedy its shortcomings, Thurston County is getting more training and additional staff for its public defense office. As reported in “The Unfulfilled Promise of Gideon,” a 2004 ACLU study, a majority of Washington counties lacked comprehensive standards for the delivery of public defense services.

## HOUSING LIMITS

Washington lawmakers have often led the charge in adopting measures that purport to “get tough” on sex offenders. However, some measures are counterproductive if they make it difficult for ex-offenders to find stable living situations when they return to the community. Society is not safer when ex-offenders become homeless.

The ACLU is pursuing a lawsuit that challenges an Issaquah ordinance that severely limits where sex offenders may live. The law was passed after plaintiff Kyle Lewis moved into a rental property owned by his mother. A decade ago, he was convicted of a sex offense that occurred when he was a minor. He completed the terms of his sentence, has not committed a further offense, and attends voluntary sessions with a therapist.

The lawsuit contends that Issaquah’s ordinance is inconsistent with state statutes governing sex offenders and is unconstitutional, because it adds punishment to individuals who already have been punished under state law. In February 2006, a King County Superior Court judge upheld the ordinance. The ACLU is appealing



Attorneys in the lawsuit that reformed Grant County's indigent defense system included (from left to right) Breena Roos, Nancy Talner, Lori Salzarulo, Dave Taylor and Beth Colgan.

the ruling. Handling the case are cooperating attorney Jeffrey Cohen of Cohen & Iaria and ACLU staff attorney Aaron Caplan.

## POLICE ACCOUNTABILITY

Recognized as a leader in the drive for improved police accountability, the ACLU-WA was asked in February 2006 to join a King County "blue ribbon" panel to review police accountability and professionalism in the Sheriff's Department.

King County Sheriff Sue Rahr formed the panel after the *Seattle Post-Intelligencer* ran a series about unchecked abuses of power by several deputies. The panel will recommend improvements in discipline and oversight. The ACLU-WA is represented by its legislative director, Jennifer Shaw. Her practical criminal defense experience, along with the ACLU-WA's extensive expertise, has made her an effective participant on the panel.

The panel has examined King County's antiquated citizen complaint

system, chronic understaffing, insufficient supervision of street deputies and lack of adequate internal or external oversight. As the panel begins to draft its report and recommendations, it is clear that some sort of external oversight will be required. The panel hopes to present the report to the King County Council in the fall of 2006.

Meanwhile, in Seattle the ACLU-WA cheered the City Council's adoption of council president Nick Licata's legislation to strengthen the Office of Professional Accountability Citizen Review Board. The ACLU had long been critical of the city's lack of support of the Citizen Review Board. Until this legislation, the city had failed to give the board access to full investigative files so that it can adequately review the disciplinary process and had failed to indemnify board members against potential lawsuits by the hostile police guild. Julya Hampton, former ACLU-WA Legal Program Director, testified in favor of the proposal before the Council. Its implementation depends on acceptance by the union during upcoming contract negotiations. ■

# Religious FREEDOM



Native American rights activist Storm Reyes and her son Jeremy Hagquist (photo by Dao H. Mai).

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“I’ve received inquiries from tribes across the nation as so many states are now going the non-smoking route. So your work on this issue has reached a much broader audience than you might have imagined.”

## FREEDOM TO WORSHIP

**T**he ACLU assisted a Muslim group in explaining to local officials that zoning regulations cannot interfere with the freedom to worship. The lesson came in Mountlake Terrace in 2005, when the Islamic Education Center of Seattle applied for a city permit to convert a home into a mosque and cultural center. For many years, the small community group of Farsi-speaking Muslims had informally used the house it owned near the city’s old core as a place of worship.

Initially, the city’s Board of Adjustment denied the permit application. The board cited the city’s plans to convert many residential properties in that neighborhood into businesses, which would raise more sales taxes and promote economic growth. The ACLU intervened on behalf of the Islamic center. It pointed out that federal law and the Washington Constitution require the city to have a compelling interest before restricting the right to worship or to manage a religious property. The city’s hopes for commercial tax revenues did not justify forcing a religious congregation out of the neighborhood.

In October 2005, the board reversed itself and voted to grant a conditional use permit to the Muslim group, allowing its members to gather and worship on their property. ACLU cooperating attorney Rich Hill of McCullough Hill represented the Center.

## CEREMONIAL SMOKE

Last fall, voters in Washington approved a ban on smoking in all public places. The measure was welcome news to people worried about the effects of second-hand smoke. But many religions incorporate the burning of incense, sage, tobacco or other substances in their ceremonies, and the law did not explicitly make exceptions for these.

Shortly after the initiative passed, Storm Reyes, a member of the Puyallup tribe in Tacoma, contacted the ACLU about the possible effect of the new law on Native American worshippers. Reyes often performs ceremonies that involve tobacco pipes, smudge pots or burned herbs.

In response, the ACLU worked with Representative Jeannie Darneille and Senator Debbie Regala of Tacoma to craft legislation that would include a religious exemption in the smoking ban. When the bill did not pass, the ACLU assisted Darneille and Regala in drafting a letter requesting a legal opinion from Attorney General Rob McKenna on whether the law specifically covers religious uses of smoke.

An Attorney General’s opinion issued in June 2006 stated that the ban on smoking in public places does not apply to the use of incense, smudge bowls and other religious smoke practices. It said that the use of ceremonial pipes is probably protected, but the final word may come from litigation. The opinion provides much-needed clarity about the new statute, making it unlikely that a city or other government will pursue prosecution of worshippers for violating the smoking ban.

## PENTACLES AND THE PENTAGON

One of the privileges earned by U.S. soldiers is a military headstone, engraved with their choice of an “emblem of belief” symbolizing their religion. Approved emblems include the Christian cross, Jewish star, and Muslim crescent. But last year, a local veteran found that some religions are more valid than others in the eyes of the Veterans Administration.

The ACLU is assisting Scott Stearns, a Navy vet from Kent who practices the neo-pagan religion of Wicca. It uses the pentacle (an ancient symbol consisting of a five-pointed star within a circle) as its emblem of faith. Stearns hoped to have the

Wiccan pentacle added to the list of approved religious emblems. But after more than a year of trying, Stearns received no answer.

Though the VA recognizes Wicca as a religion practiced by service members, it has for nearly a decade ignored requests by Wiccan families and clergy to add pentacles to the list of approved religious symbols. Yet the agency already recognizes 38 symbols of faith, including many

for “non-mainstream” religious groups and for Atheists. Earlier this year, the ACLU helped Stearns’ congregation (the Aquarian Tabernacle Church) prepare an application for the pentacle under newly adopted VA regulations. After no action from the agency, ACLU wrote to the VA asking for a prompt ruling on the application. Depending on the response, litigation may be necessary. ■

## Drug Policy REFORM

### ENDING A FAILED WAR

**T**he government pours billions of dollars annually into law enforcement, yet use of drugs continues unabated. Hundreds of thousands of nonviolent persons are put behind bars for possessing marijuana, with people of color disproportionately targeted. Protections against unreasonable searches and seizures are cast aside.

Seeking to put some common sense into drug laws and enforcement, the ACLU-WA’s Drug Policy Reform Project promotes policies that treat drug use as a public health concern, not a criminal problem. This past year, the project began an effort aimed at ending marijuana prohibition in Washington state. In cooperation with the national ACLU, we have hired attorney Alison Chinn Holcomb to direct a new Marijuana Education Project and activist Dominic Holden to work as project organizer. To change public perceptions, they are collecting personal stories of individuals who have been harmed by marijuana laws and are educating the media and general public about the need for change.

### MEDICAL MARIJUANA

Washington’s voter-approved Medicinal Use of Marijuana Act is intended to protect qualifying patients and their caregivers from being punished in state courts for growing, possessing, and using marijuana. But it does not protect them from arrest or prosecution. This has led to the arrest and conviction of people who had doctors’ recommendations to use medicinal marijuana, but who were not allowed to defend themselves in court using the medical marijuana laws.

In the 2006 Legislature, the ACLU promoted a bill to make clear that seriously ill patients can exercise their rights under the law when they go to court. It would have also defined the information in a physician authorization and protected physicians’ ability to advise their patients about medical use of marijuana. Despite substantial



ACLU-WA Drug Policy Reform Project staff members Alison Chinn Holcomb, Dominic Holden and Andy Ko.

support, the proposal did not go to the floor for a vote.

On the legal front, the ACLU-WA is challenging the unjust conviction of a medical marijuana patient in Skamania County. Sharon Tracy uses marijuana to control chronic pain from migraines and hip deformities. During an unrelated visit by a Skamania Sheriff’s detective in 2003, Tracy admitted using marijuana and cultivating plants solely for her own treatment in her home. She was charged with possession and manufacturing of marijuana, even though she had a recommendation from her California doctor to use marijuana.

A trial court did not even allow her to present her defense under the medical marijuana law to the jury, ruling that the documentation from her California physician was not valid in Washington. With no opportunity to explain in court that the marijuana was used in her medical treatment, Tracy’s attorney decided that a trial by jury would be pointless. The judge found Tracy guilty; an appeals court upheld the conviction.

The Supreme Court heard arguments in the case in June 2006. In a friend-of-the-court brief, the ACLU and the Washington Association of Criminal Defense Lawyers argued that a jury should have been able to decide whether Tracy was a legal medical marijuana patient or not, and that the trial’s court’s narrow interpretation of the law had the effect of denying Tracy her the constitutional right to a trial by jury. The ACLU’s Andy Ko and Allison Chinn Holcomb helped write the brief. ■

# Chapter ACTIVISM

**Clark County**  
**Grays Harbor County**  
**Jefferson County**  
**Kitsap County**  
**Pierce County**  
**Spokane County**  
**Thurston County**  
**Whatcom County**  
**Yakima County**

**A**CLU-WA chapters in nine counties help spread the message of civil liberties throughout the state. This year, chapter activists distributed ACLU literature at the **Grays Harbor County Fair**, marched in the **Olympia Capital Lakefair Parade**, cosponsored the Human Rights film festival in **Bellingham**, and hosted a table at Ethnic Fest in **Pierce County**.

After helping to pass many of the state's 18 governmental resolutions against the PATRIOT Act, chapters continued to educate the public about abuses of power in the name of the war on terror. In **Spokane**, an ACLU forum featured David Nevin, the attorney who successfully defended a Saudi student in Idaho wrongly accused of supporting terrorism. The **Thurston County** Chapter cosponsored a presentation by James Yee, former Muslim cleric at Guantánamo falsely accused of espionage.

ACLU-WA chapters also serve as watchdogs to protect civil liberties in their local communities. **Clark County** Chapter members opposed use of mandatory Internet filters in public libraries and hosted a forum with librarian Candace Morgan, a nationally recognized expert on intellectual freedom. **Kitsap County** Chapter members helped convince the South Kitsap School District to change the name of its year-end break back to "Winter Break" from the religiously oriented "Christmas Break." In **Pierce County**, chapter leaders continued their work to increase citizen oversight of the Tacoma police.



James Yee speaks about his experiences as a Muslim cleric at Guantánamo Bay.



# ACLU in the NEWS

*The actions and views of the ACLU of Washington were covered by these media (among others) in the past year:*

## PRINT

Aberdeen Daily World  
 Aberdeen Nickel Trader  
 Air Force Times  
 American Journal of Nursing  
 Associated Press  
 Bellingham Herald  
 Centralia Chronicle  
 Colors Northwest  
 Columbia Basin Herald  
 Davenport Times  
 Denver Post  
 East County Journal (Morton)  
 Ellensburg Daily Record  
 Everett Herald  
 Goldendale Sentinel  
 Grand Coulee Star  
 Grant County Journal  
 Issaquah Press  
 King County Journal  
 Kirkland Courier  
 Kitsap Sun  
 Kittitas Tribune  
 Lake Chelan Mirror  
 Law Week  
 Longview Daily News  
 Marysville Globe  
 Mercer Island Reporter  
 The Nation  
 National Law Journal  
 New York Times  
 The News Tribune (Tacoma)  
 North Kittitas County Tribune  
 Olympian  
 Oregonian  
 Peninsula Daily News (Port Angeles)  
 Port Orchard Independent  
 Pullman Daily News  
 Puget Sound Business Journal  
 Real Change News (Seattle)  
 San Juan Journal  
 Seattle Gay News  
 Seattle Medium  
 Seattle Post-Intelligencer  
 Seattle Times



Onlookers applaud as Governor Christine Gregoire signs Anti-Discrimination Bill 2661 in to law.

Seattle Weekly  
 Skagit Valley Herald  
 Skamania County Pioneer  
 South Whidbey Record  
 Spokane Spokesman-Review  
 The Stranger (Seattle)  
 Sunnyside Daily Sun News  
 Toppenish Review  
 Tri-City Herald  
 USA Today  
 Vancouver Columbian  
 Wahkiakum County Eagle  
 Walla Walla Union Bulletin  
 Washington Law & Politics  
 Wenatchee World  
 Yakima Herald-Republic

## TELEVISION

Fort Vancouver Community TV  
 KAPP (Yakima)  
 KCPQ (Seattle)  
 KDNO (Yakima)  
 KHQ (Spokane)  
 King County Television  
 KIMA (Yakima)  
 KING (Seattle)  
 KIRO (Seattle)  
 KLTV (Longview)  
 KOMO (Seattle)  
 KONG (Seattle)  
 KREM (Spokane)  
 KWPX (Seattle)  
 Seattle Channel  
 Seattle Community Access Network  
 Snohomish County Community TV  
 Thurston Community TV  
 TVW

## RADIO

KBCS (Bellevue)  
 KGMI (Bellingham)  
 KING (Seattle)  
 KIRO (Seattle)  
 KHTQ (Spokane)  
 KIT (Yakima)  
 KNHC (Seattle)  
 KPLU (Tacoma)  
 KOMO (Seattle)  
 KPBX (Spokane)  
 KTPK (Seattle)  
 KUOW (Seattle)  
 KXXO (Olympia)  
 Metro Networks Radio  
 National Public Radio  
 Pacifica

# Financial REPORT

## The Legacy of Liberty Challenge

Through a generous commitment by ACLU Foundation supporter Robert W. Wilson, if you establish a bequest in your will or trust, or a charitable gift annuity to the ACLU Foundation by December 31, 2006, 10% of your gift (up to \$10,000) will be matched.

The ACLU of Washington and the ACLU of Washington Foundation are separately incorporated nonprofit organizations. The ACLU 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

Another year of increasing membership demonstrates that Americans understand the importance of the role the ACLU plays in defending the Bill of Rights. ACLU membership in Washington state now totals 25,000.

## ANNUAL FUND CAMPAIGN

We are grateful to the stellar fundraising efforts of the ACLU-WA Board of Directors, the Ambassadors and the Let Freedom Ring volunteers. Contributions to the 2005 Annual Fund Campaign represented 61% of overall income and increased by 27% over last year. We especially appreciate the invaluable leadership of the ACLU-WA Development Committee: Jesse Wing (chair), Rebecca Guerra, Suzanne Holland, Doug Klunder, Judy Mercer and Jean Robinson.

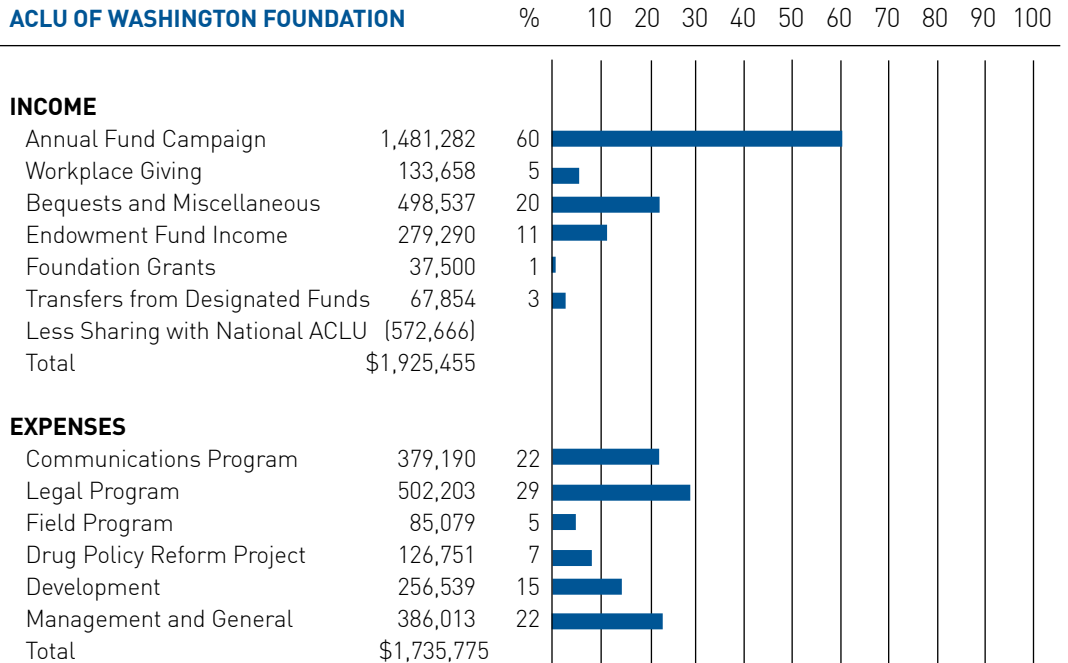
## ENDOWMENT FUND

To date, the ACLU of Washington has raised over \$5 million for our endowment program. The endowment fund ensures the ACLU's effectiveness by producing reliable income during difficult economic and political climates. These funds also provide the flexibility to strengthen our infrastructure and other areas that are key to our work. We thank the ACLU supporters whose endowment gifts help us fight the civil liberties battles of today and to prepare for future assaults. (Major endowment supporters are listed on page 28.)

## 2005-2006 INCOME & EXPENSES

(unaudited)\*

### ACLU OF WASHINGTON FOUNDATION



## 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. Currently, ACLU-WA DeSilver Society members total 140. (DeSilver members are listed on pages 28–29.)

## WAYS TO GIVE

**Cash or Credit Cards:** We accept cash and checks as well as debit cards and credit cards via MasterCard or VISA. 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 your stock and avoid capital gains taxes.

**Workplace Giving:** If your employer has an employee giving campaign, payroll deduction is a convenient way to make a tax-deductible contribution.

**Matching Gifts:** Many companies match charitable contributions of employees. If your employer has a matching gift program, please designate the ACLU Foundation.

**Honorary and Memorial Gifts:** If you would like to honor someone special or the memory of a loved one, you may make a gift and include a personal message that we will send to the person or family.

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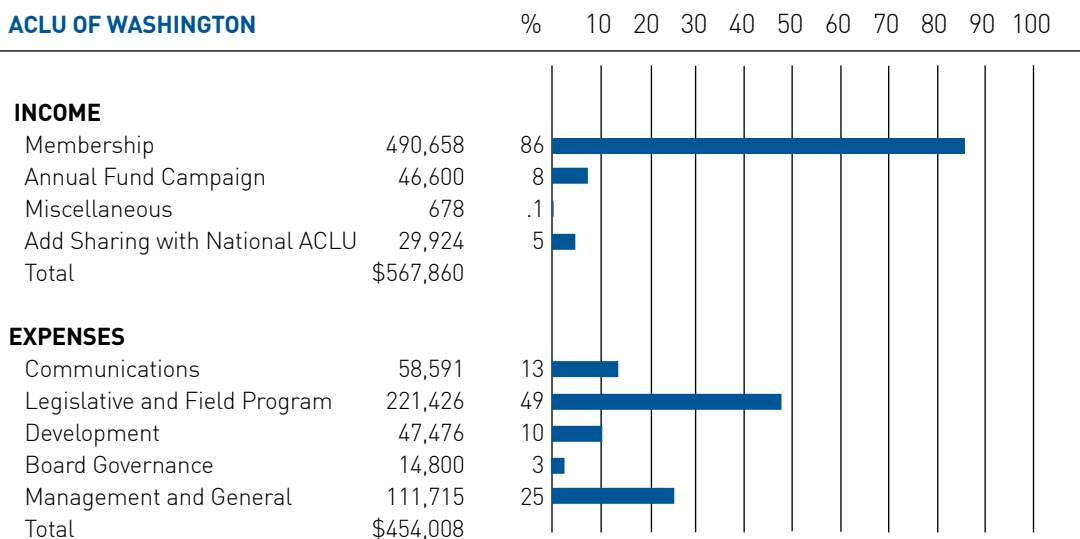
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### ACLU OF WASHINGTON



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*We recognize the members of the DeSilver Society whose bequests and other planned gifts will keep the ACLU a strong and capable defender of liberty for years to come.*

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Terra Rose

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Brett Silton  
Marcia Skok  
Andrew Strait  
Naomi Strand  
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Eric Nygren, Legal Program Associate  
Sarah Kelly, Intake Assistant/Receptionist  
Andy Ko, Drug Policy Reform Project Director  
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Susan Parr, Interim Publications and Special Projects Manager  
Roberto Sánchez, Senior Writer  
Theda Jackson Mau, Director of Development  
MaryClaire Brooks, Assistant Director of Development  
Esmeralda Ramos, Development Associate  
Lara Dennis, Contributions Associate

“Any society that would give up a little liberty to gain a little security will deserve neither and lose both.”

—Benjamin Franklin



Because Freedom Can't Protect Itself

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