

# WASHINGTON IN ACTION

SPRING 2021



PHOTO CREDIT: QUINN RUSSELL BROWN

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

## From Our Executive Director

Michele Storms

Dear ACLU members,

It is a new season, a new administration, and the ACLU remains in the fight for the civil rights and civil liberties of all in Washington state. Although the past several months have been challenging with the global pandemic and a contested election, the good news is that we have plenty of fight left in us, partly because we have so much to celebrate.

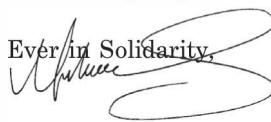
This newsletter contains our 2021 Legislative Session Report, detailing many of the bills we advocated for and against. Among them are two important victories that squarely address police violence. We have so much farther to go in our efforts to keep everyone in our communities safe, to hold those in power responsible for their actions, and to achieve true equity for all. Be assured that we are relentless. We won't stop until everyone can feel safe and cared for in their communities. That is the world I want us all to live in.

The right to vote is fundamental to democracy, but it has long been hindered by harmful and discriminatory tactics like gerrymandering, poll closures, and purges of voter rolls. In our most recent election, thousands of Washington residents could not vote because of a prior felony conviction – a measure born out of a racist and discriminatory history. After more than a decade of advocacy, yours and ours, the Washington state legislature passed a bill that will automatically restore the right to vote for all citizens convicted of a felony offense upon their release from prison.

There's far more work to be done, requiring all of our integrated advocacy tools. With that, I'm thrilled to announce the ACLU's nationwide Systemic Equality agenda to address America's legacy of racism and systemic discrimination. Here in Washington, this means we double down on our race equity work to protect and expand voting rights, to expand high speed internet access, further fair housing, eliminate barriers to reentry for returning community members, end algorithmic bias, decriminalize school discipline, advocate for reparations, and work towards a just criminal legal system, just to name a few. When we protect the rights of those most vulnerable in society, we all benefit. Stay tuned – we'll continue to share more about this.

I'm immeasurably proud of the work we accomplish together, and I can hardly wait to meet in person again. In the meantime, please save the date for our virtual Annual Celebration on October 22. This fall, when we toast on screen, I hope you are surrounded by the warmth of family and friends.

We aren't going anywhere, and I'm so grateful you've stayed with us.

  
Ever in Solidarity,  
Michele Storms

Michele Storms

# A Public Health Approach to Drug Policy Reform

by Mark Cooke, Policy Director, ACLU of Washington Campaign for Smart Justice



2021 marks fifty years since President Nixon's infamous speech where he declared, "Public enemy number one in the United States is drug abuse," starting the modern War on Drugs. It is also the twenty-year anniversary of the ACLU of Washington's launch of a drug policy reform project, seeking to replace harmful criminal approaches with a public health response. In light of these milestones, the ACLU-WA reflects on some of its drug policy reform work and highlights current efforts to end the criminalization of drug use altogether via the Treatment First Washington Campaign.

The ACLU of Washington was the first affiliate to hire staff, Andy Ko in 2001, with the primary focus of reforming drug laws. This work has always been grounded in the reality that our nation's misguided and costly "War on Drugs" has undermined civil liberties in many ways – eroding protections against unlawful searches and seizures, imposing overly harsh sentences on individuals, and disproportionately impacting communities of color. The goal has been to get policies adopted that treat substance use as a public health concern, not a criminal justice matter, through public education, legislative advocacy, and litigation. There have been some remarkable successes over the years:

2003: I-75 passes, making adult marijuana use Seattle's lowest law enforcement priority, the first such law in the U.S.

2008: Launched the Marijuana: It's Time for a Conversation multimedia campaign alongside travel writer and television personality Rick Steves.

2010: Advocated for the passage of a Good Samaritan Law providing immunity for people who seek help in overdose situations, becoming the second state to pass such a law.

2011: Helped launch King County's Law Enforcement Assisted Diversion (LEAD) program, which diverts low-level drug cases out of the criminal legal system.

2012: Led the I-502 campaign making Washington, alongside Colorado, the first to legalize and regulate marijuana for adult use.

2018: Filed the first class-action lawsuit in the nation against a jail for denying individuals access to their medications for opioid use disorder, Kortlever et al. v. Whatcom County.

Building off of this success, the ACLU-WA, along with dozens of community allies who share similar goals, started laying the groundwork in 2019 for statewide policy reform that would decriminalize substance use and invest in public health responses. This resulted in the formation of the Treatment First Washington campaign in 2020. This is a coalition of public health experts, treatment

professionals, legal and law enforcement experts, elected officials, leaders of Black, Indigenous, and people of color communities, and formerly incarcerated and directly impacted community members. The campaign advocates for a public health approach – treatment, recovery, and education to help community members impacted by substance use disorders. Originally the plan was to have a 2020 ballot initiative and one was even filed as Initiative 1715. Due to the pandemic, however, the campaign couldn't safely collect signatures so it had to pivot to a legislative strategy.

In 2021, the Treatment First Washington campaign was honored to work alongside allies in support of the state's Pathways to Recovery Act (House Bill 1499). This legislation was similar to Initiative 1715 and would provide a new way for Washington to address substance use disorder and related activities, treating these as health issues requiring care and support, including pre-treatment outreach, treatment, and recovery support services for individuals. While the bill did not get across the finish line, it set the stage for another 2021 surprise – the Blake decision.

On February 25, 2021, the Washington Supreme Court struck down the state's main drug possession crime in a case called State v. Blake. Advocates like Treatment First Washington argued that it provided an opportunity for Washington to adopt a new approach to substance use disorder based on solutions that heal rather than continuing to inflict harm on people and communities.

Unfortunately, the legislature walked back the Blake decision and chose to recriminalize drug possession via passage of Engrossed Senate Bill 5476. It was a missed opportunity that continues a War on Drugs approach to substance use disorders. At a time when our most vulnerable community members suffering from substance use disorders need extra protection, this new legislation continues criminalization, which is not effective and disproportionately impacts Black, Indigenous, and people of color. Still, not all is lost. The bill makes some important investments in developing public health approaches to substance use and the criminal law changes will sunset in July 2023. Concurrently, the ACLU-WA, Treatment First Washington, and community and coalition partners are returning to a ballot initiative strategy for 2022. In light of this affiliate's long history of fighting the War on Drugs, it's only a matter of time before this victory is added to the list of past successes.

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## Issue Spotlight: Know Your Rights

### Ending Police Violence

by Mina Barahimi Martin, ACLU of Washington Policy Advocacy Group Fellow

The murder of George Floyd was a watershed moment. It re-energized an ongoing nationwide movement and gave new life to an urgent conversation about the role of policing in our state. In Washington, about 40-50 members of our communities, disproportionately Black, brown, and Indigenous, are killed each year by police officers. That must change.

This legislative session, the ACLU-WA collaborated with the Washington Coalition for Police Accountability, which centers the voices of family members whose loved ones have been killed by police. Stoney Chiefstick, Giovonn Joseph McDade, Leonard Thomas, Tommy Le, Herbert Hightower Jr., Iosea Faletogo – and too many others – should still be alive today. True justice means that they would not have been killed in the first place. Our work seeks to bring us towards justice by preventing the unnecessary and unjust killing of others by police.

Through lobbying, organizing, and policy efforts, our state legislature passed 14 bills on policing this session with the aim of reducing police violence. These have the promise of preventing tragedies like those.

One of our priority bills focused on prohibiting and restricting hyper-aggressive police tools and tactics. The new law bans chokeholds like the one that killed George Floyd, and neck restraints, a broader category that killed Eric Garner in New York and Manny Ellis in Washington.

The law also prohibits departments from having certain military equipment, and places stringent restrictions on using tear gas, engaging in vehicle chases, and shooting at vehicles.

Another critical law that passed transforms when and how police officers can use force against members of the public. It is foundational because it changes the current legal standards that have failed us. It prohibits officers from using force when no crime being committed. It emphasizes de-escalation over confrontation so that everyone has a better chance of going home after an interaction with the police. It restricts using deadly force to when necessary to protect someone's life.

There is still much work to do at the state and local level. We still must radically change policing and re-imagine public safety – but these 2021 legislative victories should reduce violence, and that is a good start.

Want to learn more about issues in policing? Our policing blog series shares insights on a range of topics from ACLU-WA staff and our community partners and allies from around the state working on the problem of police violence. The growing series includes posts about police oversight in Spokane and in Seattle, the police inquest process in King County, Seattle Police Department's excessive overtime budget, and state legislative efforts to reduce people's interactions with law enforcement, which decreases the power of police to do harm. Although the authors of the posts approach the problem of police violence in different ways, all ultimately seek to end it.

## Civics Education for High School Learners

by Julie Davidow, ACLU of Washington Media and Communications Strategist

Twice a year, some 600 high school seniors in Kent and Renton devote a day to learning about the criminal legal system during an ACLU of Washington-led program called Civics Day.

Students hear from a professional panel including prosecutors, public defenders, and sheriffs. They learn about the Innocence Project – specifically, how often innocent people are sent to prison, and how the Innocence Project helps exonerate those who were wrongly convicted. They also discuss internal bias.

Throughout the day, students are encouraged to ask questions and draw on the expertise and experience

of the judges, prosecutors, public defenders, and police officers who participate in the program.

In 2016, as a public defender in King County, Twyla Carter started Civics Day to deepen students' understanding of their rights and responsibilities as citizens. Carter, a former senior staff attorney at the ACLU, is now national policy director at The Bail Project, a nonprofit organization that provides bail assistance and legal support to low-income people. In 2019, the ACLU of Washington took on the role of organizing Civics Day, leading the "Know Your Rights" seminar and providing wallet cards and handouts for students.

In partnership with the Federal Public Defender Office, Vanessa Pai Thompson, Assistant Federal Defender, facilitates the conversations and trainings while ACLU-WA Youth Policy Counsel Kendrick Washington II and Equal Justice Works Fellow Crystal Pardue lead "Know Your Rights with Police" sessions.

The Know Your Rights with Police sessions teach students what to do when approached by law enforcement – on and off campus. Kent and Renton are among the most diverse school districts in the state, with large percentages of Black, Indigenous, and students of color whose communities are often over-policed.

In response to the pandemic, Civics Day organizers worked with the Kent School District to continue the program remotely, allowing students to log onto Zoom to hear presentations and ask questions. (If all goes as planned, programming will resume in person with both the Kent and Renton school districts this fall.)

Knowing their rights helps students navigate when and how to advocate for themselves in a criminal legal system that disproportionately targets people of color and other marginalized communities.

"Exercising your rights isn't disrespectful and it's not disruptive," ACLU-WA attorney Kendrick Washington told students during a remote session last fall. "It's about holding [police] accountable to the laws they swore an oath to defend. It's about making sure everybody is playing by the rules."

Program organizers hope to expand Civics Day to school districts throughout the state and to create a model that can be replicated by ACLU affiliates across the country. The ACLU-WA's priority is to start with the communities that are the most impacted by over-policing.

# ADVANCING JUSTICE IN THE LEGISLATURE

2021 LEGISLATIVE SESSION REPORT



## From Our Legislative Director

Eric González Alfaro

Since its founding in 1935 by trade unionists, political activists, intellectuals, and a minister, the ACLU of Washington has protected and extended the promises of the Bill of Rights and Washington State Constitution to all people living in and visiting this state. Our work is never done.

The year 2020 brought extraordinary challenges. The pandemic devastated entire communities, disproportionately Black, Indigenous, and people of color. By last December, Latinx people made up 34% of all COVID-19 infections in Washington, yet only represented 13% of the population. Death rates for Latinx and Black patients were also twice as high as the rate for white patients.

The pandemic compounded generational disregard by people in positions of power in government and private institutions who, with a stroke of a pen and political will, could greatly improve the lives of many. COVID-19 exposed the structural injustices that were built by design, or reinforced once discovered, to preserve unfair benefits for some at the expense of others.

In the 2021 legislative session we responded to two critical public health crises that the events of 2020 made more visible and harder for people in power to avoid: the COVID-19 health pandemic and the pandemic of racial injustice.

May 25 marked the one-year anniversary of the murder of George Floyd. While Washington state has made significant progress on police accountability and public safety, we have more to do to fully repair and heal from the injustices of more than four hundred years.

As our state begins to recover from the COVID-19 pandemic, let's remember the lives we lost, and that the pandemic exacerbated and highlighted disparities that have long existed in our state's health infrastructure. This is one of the many reasons we believe it is just to advocate for comprehensive, quality care for all, regardless of immigration status.

The 2021 legislative session delivered historic progress despite the challenges presented by the first ever virtual session. We hope you enjoy the following legislative recap and will help us build on these successes in the 2022 session, as we continue to bend the moral arc of the universe a bit closer to justice.



PHOTO CREDIT: GABRIEL S. GALANDA

Rose Davis, Renee Davis' sister, receives the pen Governor Jay Inslee used to sign the Use of Force bill into law, from Rep. My-Linh Thai

# Legislative Impacts

## Debt-Based Driver's License Suspensions

The ACLU-WA worked alongside dozens of community organizations to pass legislation that would stop the suspension of driver's licenses for financial reasons and the accompanying automatic loss of vehicle insurance coverage. Washington state should not suspend driver's licenses for unpaid fines and fees. This puts people at risk of being pulled over and charged with a crime the next time they drive to work, the grocery store, or a medical appointment. There are better ways to hold people accountable for missing payments. Unfortunately, the bill that eventually passed fell short of the meaningful reform necessary to end debt-based license suspensions. The ACLU-WA will keep working in the legislature to make this change happen, and in the meantime, we are advocating in the courts.

## Pathways to Recovery

Due to COVID-19, the Treatment First Washington (TFW) campaign, supported by the ACLU-WA, decided not to gather signatures to place I-1715 on the November 2020 ballot. I-1715 would have decriminalized drug possession and replaced arrest and incarceration with a public health approach to a public health crisis. TFW pivoted to a 2021 legislative strategy and collaborated with the Public Defender Association, King County public health stakeholders, labor organizations, and the Washington Recovery Alliance to create the Pathways to Recovery coalition and support introduction of the Pathways to Recovery Act. This legislation addresses what public health experts have known for decades: Police and jails are the wrong tools to help community members with substance use disorders. It is a crucial step toward reducing the harm inflicted on communities of color by the War on Drugs and mass incarceration. The Act got a hearing and passed out of the House Public Safety Committee, a major milestone for this issue! Elements of the bill were also adopted in another law enacted in response to the Washington Supreme Court's State v. Blake decision, which struck down the state's main drug possession crime. Unfortunately, that bill recriminalized drug possession in Washington. The ACLU-WA and community and coalition partners are returning to a ballot initiative strategy for 2022 to end the failed and biased criminalization of people for drug possession and build sustainable pathways to recovery that address the root causes of substance use disorder.

## Voting Rights

Washington became the 21st state to automatically restore the right to vote to all citizens upon release from prison. Starting January 1, 2022, over 26,000 Washingtonians currently on community custody will have their voting rights restored and be able to register to vote and participate in our democracy. This bill is a critical step to remove barriers to voting and to end the racist practice of felony disenfranchisement. Several harmful carve-out amendments were successfully defeated to create a bright-line rule that leaves no one behind.

## Sentencing Reform

The ACLU-WA is working in coalition and partnership with many allies and incarcerated individuals to combat the systemic inequities and institutional racism of the criminal legal system through holistic sentencing reform and decarceration efforts. Several legislative proposals were introduced this session to reduce sentences and provide an avenue for release for those who are serving life and long sentences. The ACLU-WA will continue to advocate for priority bills to increase earned release-time (i.e., "good time") to reduce total time served in prison; provide a system for post-conviction review (similar to "parole") allowing for an independent review board to provide

second chances for those currently serving long and life sentences in prison; provide similar review for "emerging adults" who were convicted before turning 26 years old; and remove consideration of juvenile records when sentencing adults.

## Ending Solitary Confinement

The use of solitary confinement in our state prisons is torture and has devastating impacts on those incarcerated. Building on work in 2020 that helped successfully pass legislation to ban juvenile solitary confinement for disciplinary purposes, this session, the ACLU-WA partnered with Disability Rights Washington to ban the use of adult solitary confinement in prison. Despite a powerful hearing with testimony by many supporters, the bill did not pass. The work remains pressing as the Department of Corrections has increased its use of solitary confinement in response to COVID and as prison conditions continue to worsen.

## Private, For-Profit Immigration Detention

This legislative success bans the use of private detention facilities in Washington and prevents existing contracts from renewing. Private prisons are driven by profit motives that fuel the problem of mass incarceration. In our state the only private detention facility is the Northwest Detention Center in Tacoma that detains noncitizens for ICE. Passed with the help of strong advocacy led by La Resistencia and Columbia Legal Services, this new law requires that the detention center stop detaining people when its contract ends in 2025 – a huge victory for immigrant rights.

## Youth Access to Counsel

Youth often do not understand the consequences of waiving their right to an attorney, and while the right to remain silent is a hallmark constitutional protection, less than 10 percent of youth assert their Miranda rights when stopped by police. The ACLU-WA successfully advocated for a groundbreaking state law that requires police officers to connect youth to an attorney before they conduct a custodial interrogation when they detain a youth based on probable cause of criminal activity or when they request that the youth consent to a search of their person, property, or vehicle. These expanded protections will help reduce false confessions and the disparate number of Black youth who tend to waive their constitutional rights when encountering police.

## Youth Sex Offender Registries

Thousands of Washington youth, many under the age of 16, are forced to register as sex offenders for behaviors that they barely understand or were the result of living in traumatic and abusive homes. These registries are ineffective in providing accountability and community safety, and they do not meet their intended goal of reducing sexual assaults. The ACLU-WA and allies supported a bill that would eliminate the youth sex offender registry for most offenses and create a developmentally appropriate response for youth. The bill never made it to the Senate floor, but we are prepared to resume the fight.

## Protecting Pregnant Patients

Across our state pregnant patients have had their medical care delayed or denied because of institutional policies that are not grounded in science. These policies, which prohibit pregnancy terminations except in very limited circumstances, are discriminatory, serve no medical purpose, and place the health and lives of pregnant patients at risk. The ACLU-WA, working closely with many reproductive health advocates and providers, spent years advocating and mobilizing to pass the Protecting Pregnant Patients Act. This Act prevents hospitals

from interfering with a qualified health care practitioner's ability to provide medically necessary care to a pregnant patient whose health or life is at risk. It is a critical step in addressing discriminatory barriers to reproductive health care. Our success in passing it this year ensures that patients experiencing harmful pregnancy complications will receive the care they need when they need it.

### Health Equity for Immigrants

Many immigrants go without critical health care services because they have no way to obtain quality, affordable health coverage. Immigrants without qualifying immigration status are ineligible for Medicaid and Qualified Health Plans, so around 46 percent of undocumented individuals are uninsured in Washington, compared to just 7 percent of the state's overall uninsured population. Thousands of immigrants go without needed care or delay care until it becomes an emergency. This year the ACLU-WA, with community advocates and providers, worked to ensure undocumented immigrants would have access to state-funded health insurance programs. While the bill did not move forward, we successfully pivoted to a budget strategy and obtained two budget provisos: \$35 million for health care services for uninsured and underinsured individuals, regardless of immigration status, and authorization for government agencies to use funds to explore opportunities to facilitate enrollment of currently excluded populations in a state-funded health coverage program by 2024 — a significant step forward.

### Data Privacy

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

### Automated Decision-Making Systems

Government agencies make some of the biggest decisions in people's lives — from whether they receive healthcare, to whether they can receive housing assistance, to how long they are sentenced to prison. Increasingly, these government decisions are being made by secret algorithms developed by both government agencies and private companies. This lack of transparency and accountability has created due process nightmares. The ACLU-WA introduced a bill that prohibits any agency from developing or using automated decision systems that discriminate and establishes minimum standards of fairness and accountability for any government agency buying or using these systems. The ACLU-WA successfully passed a budget proviso that creates a task force to examine some of the systems in use. We will continue to push for accountability in 2022.

### Face Surveillance

Facial recognition is an unprecedented technology that gives the government massively enhanced powers to identify, locate, and track people. Some companies even use it to assess emotions or one's potential for dangerous behavior. Taking decisions about who a person is and what they may be feeling out of

human hands, for example in policing, can have life-or-death consequences. The ACLU-WA introduced a bill that hits pause on government purchase and use of this technology and creates a task force to begin a necessary and overlooked consultation with the communities most impacted by surveillance. While the bill did not move, we will continue to advocate for a moratorium on government use of this technology.

## REFORMING POLICING: Victories and Continued Advocacy



Use of Force bill signing. L to R: Rep. John Lovick, Rep. Debra Entenman, Rep. David Hackney, Sen. T'wina Nobles, Governor Jay Inslee, Rep. Jamila Taylor, Rep. Kirsten Harris-Tally, Rep. Jesse Johnson

### Deadly Tactics

This legislative victory was a key demand of the Washington Coalition for Police Accountability (WCPA) that centers the voices of family members whose loved ones were killed by police. In the wake of the George Floyd and Breonna Taylor killings, people across Washington and across the country took to the streets to protest police brutality. This bill prohibits certain hyper-aggressive police tactics and equipment such as chokeholds and neck restraints, no-knock warrants, and military equipment, and puts significant restrictions on other dangerous tactics like vehicle pursuits, tear gas, and shooting at moving vehicles.

### Use of Force

This legislative success is a foundational part of reducing police violence across our state. Police officers in Washington kill about 40-50 people each year, and harm many others. This bill restricts when and how officers can use force against members of the public and significantly limits their authority to use deadly force. It emphasizes de-escalation over confrontation so that everyone has a better chance of leaving an encounter with the police unharmed. The ACLU-WA worked closely with WCPA to get this bill passed.

### Felony Bar

Before this bill passed, Washington state law shielded police from civil liability for hurting and killing people by allowing them to claim that the injured or deceased individual was

committing a felony at the time. This is called the “felony bar” rule. Families who have lost loved ones to police violence succeeded in reforming this rule. Under the bill, if police claim the commission of a felony as a defense to a lawsuit, they must prove the defense at trial and satisfy a higher burden of proof. The bill is a significant step forward in holding police accountable for taking the lives of community members.

### **Peace Officer Accountability**

When a police officer harms someone without facing consequences, there is no justice for the victim, no incentive to change bad behavior, erosion of community trust, and loss of community safety. This bill sought to remove obstacles to holding officers and departments civilly liable for violating peoples’ rights by creating a private right of action, with attorneys’ fees and without qualified immunity. This bill did not pass this year but did get to the House floor.

### **Collective Bargaining**

The community’s right to police accountability should not be bargained away. Over and over, throughout Washington, community efforts to strengthen police accountability have been stymied by the police union collective bargaining process. ACLU-WA helped draft a bill to make clear that police unions are unique among public employees because police officers have the authority and broad discretion to engage in state-sanctioned use of force, taking of life, and taking of liberty. The bill would have taken specified accountability issues out of the police union collective bargaining process. It would also have ended private arbitration of police discipline appeals which often resulted in reinstatement of officers who committed serious misconduct. Strong testimony supporting the bill was presented at a hearing, but the bill was not voted out of committee. Efforts to pass it will continue in 2022.

### **Independent Investigations**

A shared priority of WCPA and the ACLU-WA was passage of legislation implementing recommendations of the Governor’s Task Force on Independent Investigations of Police Use of Force. Seven of the twenty-four task force members were also WCPA members. Throughout 2020, the ACLU-WA co-chaired a WCPA working group that helped task force members develop positions and supporting arguments. A newly enacted law delivers on key recommendations of the task force: creation of a statewide entity to conduct criminal investigations of police use of force; transition to nonlaw enforcement investigators within five years; an advisory board with a strong majority of community members for input on the hiring of the director; and adopting an anti-oppression and racial equity framework to lead the organization’s work.

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## **BY THE NUMBERS**

### **Legislative Advocacy in the 2021-2022 Biennium**

2021 Regular Session (January 11 to April 25)

- 602** Bills were introduced in the House
- 506** Bills were introduced in the Senate
- 63** Bills we supported were enacted
- 51** Bills were opposed by us
- 3** Total number of bills we opposed that were enacted
- 25** Number of times ACLU-WA staff testified at hearings
- 39** Number of times we met, called, and wrote legislators
- 23,537** Number of times ACLU-WA supporters met, called, and wrote legislators
- 259** Total days from end of 2021 session to start of 2022 session

## **The Power Is with the People**

Every year, the ACLU-WA looks forward to gathering activists together in Olympia to learn and to lobby legislators about critical civil liberties bills. This year looked a little different. With a completely remote session, activists from across the state joined the affiliate via Zoom for the first-ever virtual Lobby Week!

From January 25 through January 29, supporters representing 26 legislative districts worked in teams to attend virtual meetings with state representatives and senators to advocate for police reform. Over the course of 58 meetings, activists advocated for passage of a bill related to collective bargaining for police unions, and a bill concerning use of force by police officers. Lobby Week participants also learned how to register their position on a bill for the public record, attended virtual hearings, emailed lawmakers, and completed action alerts to support our full legislative agenda. With the support of amazing advocacy from our lobby week participants, the ACLU-WA successfully advocated for passage of the use of force bill this session and will continue to fight for police union collective bargaining reform in 2022.

Stay tuned for more information about next year’s Lobby Day on January 17, 2022!

# CLIENT AND LEGAL UPDATES

## Pierce et al. v. DOL

The ACLU-WA filed a lawsuit in October 2020 on behalf of individuals who have had their driver's licenses suspended by the Washington Department of Licensing (DOL) because they were unable to pay fines and fees for moving violations. In April 2021, the Thurston County Superior Court ruled that Washington's law authorizing automatic and mandatory license suspensions for unpaid moving violation fines without meaningful evaluation of the driver's ability to pay the fine violates the state constitution's right to due process. The parties stipulated to and the Court entered an injunction that will stop these suspensions until January 2023 and will rescind past suspensions, resulting in an estimated 100,000 Washingtonians being able to get their driver's licenses back.

## Racial Profiling and Unlawful Detention Settlements

In April, the United States agreed to pay our clients \$35,000 each in settlements after they were wrongfully detained and interrogated by U.S. Customs and Border Protection agents in separate incidents at the Spokane Intermodal Center. The 2017 and 2019 detentions of Andres Sosa Segura and Mohanad Elshieky were part of a pattern of discriminatory behavior by Border Patrol agents, in which agents regularly targeted people of color who were riding Greyhound buses and interrogated them about their immigration status. The plaintiffs were represented by the Northwest Immigrant Rights Project, the ACLU-WA, and Davis Wright Tremaine LLP.

## Jose Martinez-Cuevas, et al. v. DeRuyter Brothers Dairy Inc., et al.

The ACLU-WA filed an amicus brief in support of the class action lawsuit that led to the Washington Supreme Court ruling that farmworkers are, in fact, entitled to overtime pay. Farmworkers have been excluded from overtime pay since 1938 at the

national level and Washington state codified that into state law in the 1950s. 99% of Washington's farmworkers are Latinx. Following the ruling, the state legislature signed into law the farmworker overtime bill.

## Black Lives Matter Seattle-King County v. City of Seattle

In December, a federal judge held the city of Seattle in contempt of court after finding multiple violations of court orders barring the Seattle Police Department from indiscriminately using chemical weapons and other less lethal weapons against crowds. The plaintiffs are represented by Perkins Coie LLP, the ACLU-WA, and Seattle University School of Law's Korematsu Center.

## Avendaño v. Asher

In December, the ACLU, the ACLU-WA, and the Northwest Immigrant Rights Project filed a Temporary Restraining Order on behalf of immigrants detained at the Tacoma Northwest Detention Center in Tacoma, seeking immediate release of people who are at high risk for serious illness or death in the event of COVID-19 infection and to improve conditions for those who remain. So far, the court has not ordered releases, but some at-risk detainees have been released, conditions have been improved, and vaccinations made available to detainees.

## Selah Alliance for Equality, et al. v. City of Selah

After Selah city officials erased chalk messages and removed signs posted in public locations showing support for racial equity, the Black Lives Matter movement, and police reform, the Selah Alliance for Equality (S.A.F.E.) and Selah residents filed a lawsuit against the City of Selah, its Mayor, and its City Administrator. Filed in December, the complaint seeks to prevent the city and its officials from further interfering with residents' free speech. In early June, the court temporarily blocked the City from such interference after finding that S.A.F.E. would likely prevail. Plaintiffs are represented by Perkins Coie LLP and the ACLU-WA.

## **Does v. Washington Department of Corrections**

In April, Disability Rights Washington (DRW); the ACLU-WA; Munger, Tolles & Olson LLP; and MacDonald, Hoague & Bayless sued the Washington Department of Corrections (DOC) on behalf of a group of people who are currently and formerly incarcerated. Several parties, including media entities and an individual, had requested names and other information through the Washington Public Records Act about people whom DOC has identified as transgender, non-binary, and intersex. This emergency lawsuit was necessary to protect their safety and privacy. This case is active, though we received provisional class certification and a preliminary injunction, meaning that these records will not be released while we litigate the case.

## **Robbins v. Swedish Health Services**

In 2017, the ACLU-WA filed a lawsuit on behalf of Ari Robbins, a Seattle man who was wrongfully turned away from Swedish solely because he is transgender. As part of a settlement the parties agreed to in July 2019, Swedish had six months to implement specific changes to its website to assist transgender patients in accessing healthcare at Swedish. Swedish ignored its promises, so we filed a lawsuit in December. That case was recently resolved and dismissed after Swedish finally changed its website.

## **Lemmon v. Pierce County**

Eddie Lemmon, a 56-year-old veteran who lives in Tacoma, was convicted in October 2010. He was still incarcerated months later when Pierce County sent his debt to collections where additional fees and interest would be applied, even though Mr. Lemmon could not afford to make payments. His debt has more than doubled in collections where it remains more than a decade later. The Terrell Marshall Law Group and the ACLU-WA filed a class-action lawsuit against Pierce County in April, alleging that Pierce County violated Lemmon's U.S. and Washington constitutional rights and routinely violates the rights of others.



## **ARTIST SPOTLIGHT: MARISOL ORTEGA**

Based in Tacoma, Marisol Ortega is a first-generation Mexican-American designer, illustrator, and letterer. She is best known for her vibrant flora and fauna illustrations that play with texture, linework, bold color palettes, and organic shapes — reflecting an exploration of her cultures. She pulls inspiration from childhood memories of visiting her abuela's home in Michoacán, Mexico.

Months before the pandemic hit, Marisol illustrated a "We Are in This Together" poster for the ACLU-WA. The poster has been spotted in the wild all over the state — in windows and at rallies. We featured her illustrations throughout 2020 and into this year. Marisol designs for good beyond the ACLU. She loaned her talents to COGRID-19, a project in which 19 artists in major cities create risograph prints to raise money for those most affected by the pandemic. See more at [marisolortega.com](http://marisolortega.com).



PHOTO CREDIT: BRIAN SMALE

Projecting Justice at Saint Mark's Episcopal Cathedral in Seattle

## COMMUNITY CONNECTIONS

### Reparations, the Path Forward, and H.R. 40

On March 24, 2021, Japanese and African American survivors, activists, and artists came together from across the country to discuss similarly lived experiences, the precedent set by the imprisonment of Japanese Americans, redress for Japanese interment, and the path forward for reparations for Black people in America. If Congress passes H.R. 40, it would establish a long overdue commission to study and develop reparation proposals. America will never achieve racial justice without examining the impact of slavery and its legacy — and make strides toward achieving reparatory justice. Watch the virtual event and learn more at [aclu.org/reparations](http://aclu.org/reparations).

### Projecting Justice

Beginning on May 25, the anniversary of the murder of George Floyd, the ACLU-WA partnered with Seattle's Saint Mark's Episcopal Cathedral to project the names of more than 30 people who were killed by police in Washington. Each night through June 8, names were projected onto the west façade of the Cathedral, visible from Interstate 5, Lake Union and beyond. This collaboration, along with support from the Washington Coalition for Police Accountability,

underscores a shared belief that, even as important work around police reform continues through legislative action and policy changes, true justice would be that these people were never killed in the first place. Learn more at [projectingjustice.org](http://projectingjustice.org)

### Flights & Rights

In recent months, we have held virtual Flights & Rights presentations on police accountability, health equity for immigrants, surveillance and data privacy, Indigenous youth, and the 2020 Election.

*Thank you to loyal ACLU supporters who continue to watch online. Once we are able to gather in person, the ACLU-WA will continue to host digital events for those who cannot join because of distance, work, or family obligations. Special thanks to allies and speakers who have joined the ACLU-WA on the small screen: Jennifer Cole, Partnerships for Action Voices for Empowerment; Adriana Ortiz, El Centro de la Raza; Michael Byun, Asian Counseling and Referral Service; Brianna Auffray, Council on American-Islamic Relations (CAIR) Washington; Stanley Shikuma, Japanese American Citizens League; Ashley Del Villar, La Resistencia and Mijente; Sarah Sense-Wilson, Urban Native Education Alliance; Victoria Plumage, Indigenous Roots; and Eva Walker and Gabriel Teodros of KEXP. Gratitude for the flights to go with our rights: Lucky Envelope Brewing, Georgetown Brewing, Off the Rez, and Talking Cedar brewery, distillery, and restaurant. Watch any of these events at [aclu-wa.org/events](http://aclu-wa.org/events)*

### UPCOMING EVENTS

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

**ALL SUMMER** Pride Events

**6/19** Juneteenth. Visit Black-owned businesses across the state and get an ACLU-WA discount

**6/23, 7/21, & 8/18** Power Up local government and advocacy training

**6/29, 7/27, 9/28, 10/26, & 11/23** Flights & Rights

**7/1** CLE: Why Race Equity Matters with Twyla Carter

**7/19-/7/23** ACLU National Advocacy Institute High School Program. Visit [aclu.org/high-school-program](http://aclu.org/high-school-program)

**10/22** Annual Celebration with john a. powell

# ACLU

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## ACLU-WA Annual Celebration



**with john a. powell**

**October 22, 2021 online: [aclu-wa.org/celebrate](http://aclu-wa.org/celebrate)**