

RADICAL



HOPE

ACLU of WASHINGTON



Photo by: Nick Hanyok

My friends,

As a new year begins, I'm writing to underscore a message of hope. At a time that may feel like injustice prevails, I'm here to remind you that is not the case.

At the ACLU of Washington, we show up to work every day choosing to believe in radical hope. Radical hope dares to believe that even when forces seek to exclude some of us, we will find a way to include all of us. Every single human in our community is worthy of care, consideration, intention and specifically, the equality, equity, and protection of law and of all our systems and institutions. Radical hope leads us to action.

In the face of many challenges, radical hope led us to:

- Achieve a major victory and step forward for race equity in the criminal legal system with the recent unanimous Washington Supreme Court ruling that race must be considered when determining whether a person feels reasonably free to leave during an interaction with police.
- Block a school censorship bill that would have prevented Washington's educators from discussing systemic racism with students.
- Continue the fight to ensure access to abortion, including securing adequate funding, protecting service providers, and being a safe haven for the anticipated 385% increase of pregnant patients coming to the state of Washington for care.

As you review this report, I hope you see that while the challenges ahead are great, our collective action, care and resilience is greater. May this year-in-review help you heed the call of radical hope alongside your ACLU.

Building a future that honors the humanity of all of us takes all of us; it takes the best we can give. Please take care of yourselves. We all need to be resourced and ready to continue in the quest for equity and justice. Here at the ACLU-WA we will keep going forward, fighting for our rights, because going back is not an option.

Onward to justice and freedom,

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Executive Director, ACLU of Washington

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WE WORK TOGETHER TO:

Secure Access to Abortion and Gender Affirming Care

We have lost the federal constitutional right to an abortion, a fundamental right we held for 49 years. **While abortion and gender affirming care remain legal in Washington, there is much work to be done to secure access for everyone who will need it** – including those who are forced to travel to states like ours for care.

After taking to the streets right after the fall of *Roe*, the ACLU-WA teamed with the ACLU and partner organizations to **train attorneys across the state** to provide legal information to protect patients and providers.

For years, mergers and acquisitions between health care entities in Washington have decreased access to reproductive, end-of-life, and gender affirming care. In 2022, the ACLU-WA, in coalition with allies, introduced the Keep Our Care Act which will **ensure health system consolidations improve rather than harm access to affordable, quality care**. The bill did not advance so our fight continues this year.

End Unlawful Immigration Practices

We won a landmark case under the Keep Washington Working Act of 2019 (KWW), **prohibiting state and local law enforcement agencies from participating in federal immigration enforcement** – the first case seeking relief under this new law. Carlos Rios, a U.S. citizen, reached a settlement with the U.S. government after having charges dropped but being kept in custody by Pierce County based on a request from U.S. Immigration and Customs Enforcement. This year, he agreed to end a separate lawsuit against Pierce County after reaching a settlement awarding him damages. (*Rios v. Pierce County*)

Immigration detainees at Northwest Detention Center are paid \$1 per day to help run the facility, including kitchen work, laundry and other cleaning. The State of Washington and detainees sued, claiming the **workers must be paid the state minimum wage** because the center is run by a private company. A jury in federal court agreed. The case is now on appeal and the ACLU-WA, along with the ACLU National Prison Project and other groups, submitted an amicus brief supporting the jury verdict. (*State v. GEO Group*)

Achieve Health Equity for Immigrants

An estimated 105,000 undocumented immigrants in Washington state are ineligible for Medicaid or Qualified Health Plans as a direct result of their immigration status. As a core member of the Health Equity for Immigrants Campaign, the ACLU-WA **successfully helped obtain \$12 million in the state budget this year to build health coverage programs** for all Washingtonians, regardless of their immigration status. The programs, which will make Washington the first state in the nation to open its health insurance to everyone, are set to launch in 2024.

Demand Police Accountability

As a result of intense and unified police lobbying across the state and a fearmongering campaign, **lawmakers introduced 12 bills in 2022 that would have rolled back police reform victories** from 2021. With significant work by the Washington Coalition for Police Accountability (WCPA), the ACLU-WA and our allies across the state, only a single pushback bill ultimately passed, and we narrowed it considerably. Our work continues next legislative session.

Drawing on arguments presented in an amicus brief by the ACLU-WA and our allies, and building on over a decade of our work to reduce racial bias in the courts, the Washington Supreme Court unanimously ruled that **race must be considered when determining whether a person feels reasonably free to leave during an interaction with police**. This decision is an important and long overdue acknowledgment that a person's race impacts how they view interactions with police in light of America's long history of racialized policing and police violence. (*State v. Sum*)

Eight of the 13 south King County mayors published a letter before the midterm elections to amplify outdated and reactionary “tough-on-crime” narratives that fuel racist mass incarceration. They made the unsubstantiated claim that policing and drug policy reforms enacted by the state Legislature are driving an increase in crime. With the Federal Way Black Collective, the Washington Defender Association and 26 other community organizations, we published an open letter in several south King County papers clarifying that **police reform legislation has saved lives and improved public safety for all communities**.

End the Racist War on Drugs

In our 2019 settlement, the Whatcom County Jail **agreed to provide medication assisted treatment (MAT) services to people with opioid use disorder**. The settlement concluded in May 2022, but the program is expected to continue and is building momentum for increased access to MAT for incarcerated individuals across the country. (*Kortlever et al. v. Whatcom County*)

We advanced a statewide ballot measure to **decriminalize drug possession** and expand access to substance use disorder prevention, outreach and engagement, harm reduction, and recovery support services. While we were unable to secure a qualifying number of signatures, we built a **coalition of 42 endorsing organizations** and focused public attention on policy developed in consultation with a broad array of stakeholders with lived and professional expertise. Polling indicated that **67% of Washington voters would have approved the measure**. This groundwork will be critical to our efforts in 2023, when lawmakers will consider the **pending July 1, 2023 expiration of criminal penalties for drug possession** hastily adopted after the 2021 *Blake* decision.

Stop Violating the Rights of Unhoused People

In 2019, the ACLU-WA filed a lawsuit on behalf of unhoused people in Seattle alleging the **encampment sweeps conducted by the city of Seattle are unconstitutional** because

they illegally seize and destroy the property of people who are living outside, plus lack adequate and effective notice, an opportunity to be heard, or a meaningful way to reclaim any property that was not destroyed. The case is set for trial in March. (*Kitcheon v. Seattle*)

Advance Systemic Equality

Based on an idea originated by economist Darrick Hamilton, Connecticut was the first state to pass legislation adopting a policy to **invest a modest sum of state funds on behalf of each child born into poverty, to be made available for higher education, home ownership, or starting a small business (“baby bonds”)**. The ACLU-WA and the ACLU supported legislation requested by the Washington State Treasurer to create a Washington Future Fund, and funds to study how baby bonds can shrink Washington's wealth gap. We'll continue advocating for adoption of the policy in the 2023 session.

Promote Indigenous Justice

The ACLU-WA, along with several affiliates and the national ACLU, filed an amicus brief urging the Supreme Court to uphold the Indian Child Welfare Act, to preserve decades of crucial protections for Native children and families, tribal sovereignty, self-determination, and the very existence of tribes. (*Brackeen v. Holland*)

We sponsored daylong **Indigenous Peoples' Day** programming on KEXP 90.3FM and kexp.org.

Affirm LGBTQIA2S+ Rights



For the first time since the pandemic, the ACLU-WA brought together a contingent for the **Seattle Pride Parade**.

The ACLU-WA filed an amicus brief when a therapist tried to stop enforcement of **the state's conversion therapy ban**. Conversion therapy attempts to change the sexual orientation or gender identity of a patient – a practice that does not work and puts young people at serious risk of harm, including depression and suicide. Federal district court rejected the therapist's claim that Washington's ban infringed on his right of free speech. He appealed. The Ninth Circuit rejected his arguments and upheld the District Court's ruling that the state's conversion therapy ban did not violate First Amendment free speech protections. (*Tingley v. Ferguson*)

In 2021, we sued the Washington Department of Corrections to **protect the safety and privacy of transgender, non-binary, and intersex people who are currently and formerly incarcerated**. This year, we successfully argued that the cases should be permanently dismissed and the names sealed. We partnered with Disability Rights Washington; Munger, Tolles & Olson; and MacDonald Hoague & Bayless. (*Does v. Washington DOC*)

On behalf of Justin Wetherell, a non-binary flight attendant based in Seattle, we called on Alaska Airlines to **end their gender-based flight attendant uniform policy**. The Washington State Human Rights Commission agreed that the policy is discriminatory, but Alaska Airlines refuses to change it. The Civil Rights Division of the Attorney General's Office filed a complaint with the Office of Administrative Hearings. The ACLU has joined to represent Wetherell.

Protect the Right to a Fair Trial

The ACLU-WA filed an amicus brief arguing, in part, that **it is imperative that all people — but particularly Black people accused of a serious crime involving a victim of a difference race — have the opportunity for a diverse jury**. We also argued that discriminatory use of peremptory strikes compounds racial disparities by denying potential jurors of color the privilege of participating equally in this critical civic process in violation of General Rule 37 — which the ACLU-WA was key in creating and implementing. The Washington Supreme Court agreed with the ACLU-WA, affirmed the expansive protections of General Rule 37 and overturned the conviction. (*State v. Tesfasilasye*)

Theodore Rhone disputed **the use of peremptory challenges to strike the only or last remaining member of a recognizable racial group in jury trials resulting in the race-based discrimination** that remains pervasive in the criminal legal system. The Washington Supreme Court denied Mr. Rhone's request, but ultimately adopted the rule he proposed, which has been expanded upon in subsequent cases. He has returned to the Court, arguing for the relief

that he is entitled to. The ACLU-WA filed an amicus brief in his original appeal in 2009 and we reaffirmed our advocacy with an updated amicus. The Court granted review of his case, to be argued in February 2023. (*PRP Rhone*)

Reform the Criminal Legal System

Washington is one of only a handful of states where children as young as 8 years old can be incarcerated. For the past couple of sessions, the ACLU-WA and allies have worked to advance a bill that would **raise the age at which a child can enter the juvenile legal system from 8 to 13** and study the expansion of the top range of juvenile court jurisdiction. We will continue this important work in 2023.

The use of solitary confinement, **a form of torture** under the United Nations, has increased in response to pandemic and worsening prison conditions. The ACLU-WA partnered with Disability Rights Washington over the past two years to introduce legislation that **bans the use of solitary confinement** beyond 15 days in prison. In 2022, we helped currently incarcerated people **to testify in their own words**, and the legislation advanced through the House policy and fiscal committees. Our fight continues.

We filed an amicus brief arguing that **individuals should have the ability to vacate and seal their records from when they were juveniles**. The Washington Supreme Court held that people have the ability to seal their juvenile records and courts have the authority to do so. The Court noted our amicus brief in its order. The brief was spearheaded by the King County Department of Public Defense and many organizations joined in support. (*State v. Garza*)

Isabelita Hawkins, a Black woman veteran was convicted of assaults connected to post-traumatic stress. She received treatment and completed her requirements, but the judge refused to vacate her conviction. We filed an amicus brief asking the Washington Supreme Court to **consider the overrepresentation of individuals with serious mental illness in the criminal legal system, the purpose and efficacy of treatment courts, and the long-term negative effects of conviction history**. The Supreme Court ruled in favor of Hawkins and held that courts must meaningfully consider evidence of mitigation and rehabilitation when determining whether to vacate a conviction. (*State v. Hawkins*)

With Terrell Marshall Law Group, we are suing to stop Pierce County from referring legal financial obligations (LFOs) – court-ordered fees, fines, and other expenses – to **private collections agencies** without meaningfully assessing a person’s ability to pay. We are actively litigating and seeking a class certification to protect a large number of Pierce County residents impacted by its unlawful actions. (*Lemmon v. Pierce County*)

Preserve the Separation of Church and State

The Supreme Court sided with a public-school football coach who demanded the right to pray with his players after games at the 50-yard-line, significantly eroding the separation of church and state in public schools. The ACLU-WA and the ACLU filed an amicus brief, and we continue to publicly remind school districts of their duty to protect the rights of kids and families of all faiths, or none at all. (*Kennedy v. Bremerton School District*)

Fight Censorship in Schools

We blocked **several harmful censorship efforts** masked as “education” bills. These would have prohibited systemic racism discussions, references to *The New York Times’* 1619 Project, Dr. Ibram X. Kendi’s book, *How to Be an Antiracist*, and so-called critical race theory lessons.

We sent a letter to **Richland School District** warning them of the constitutional concerns with their attempt to ban controversial issues, topics, and images from its schools. Our letter was repeatedly referred to during a very active school board meeting. One person noted that they didn’t want to be an “ACLU test case.” The policy they ultimately adopted was amended from the one originally proposed, based on our advocacy letter, but concerns remain and we will continue to advocate.

Spread Know Your Rights Information

Back in person for the first time since 2019, we teamed up with Federal Public Defender Vanessa Pai-Thompson to bring critical **Know Your Rights information to Kent School District seniors** through our Civics Day program. Kent is among the most racially diverse school districts in the state.

Safeguard the Public from Invasive, Discriminatory Technology

We successfully advocated for **excluding funding for gunshot detection systems**, such as ShotSpotter, from Seattle’s 2023-2024 budget. Evidence indicates these systems are riddled with inaccuracy, violate privacy, are used to target communities of color for excessive policing, and can escalate interactions between police and the communities they serve, while no evidence suggests they prevent or deter gun violence.

Increasingly, government decisions are made by secret algorithms, creating due process nightmares and escalating police encounters with disastrous results. The ACLU-WA and the Tech Equity Coalition supported legislation that would have prohibited any agency from developing or using **discriminatory automated decision systems** and established minimum standards of fairness. We will continue to educate lawmakers, inform the public, and push for accountability.

The ACLU-WA and the Tech Equity Coalition advocated for the People’s Privacy Act to **prohibit companies from collecting, using, or selling people’s information without** freely given opt-in consent. We also helped block the weak, industry-backed Washington Privacy Act for the fourth year in a row. Our work continues.

Free the Vote

Washington became the 21st state to automatically **restore the right to vote** to all citizens upon release from prison, after legislative advocacy by impacted community members, the ACLU-WA, and allies. 26,000 Washingtonians currently on community custody had their voting rights restored and are now able to register to vote and participate in our democracy.

Protect People Who Speak Truth to Power

We represented S.A.F.E., a Selah community-led organization formed to promote anti-racism and equality, after the city removed and destroyed signs and messages written on the sidewalks that express support for police reform and racial equity. The lawsuit ended this year in a settlement with the city of Selah, which agreed to **stop selectively enforcing its sign code and to fund and install a mural to promote inclusion and diversity** in the community. (*S.A.F.E. v. Selah*)

We sued on behalf of Dr. Ming Lin, a physician who was **fired after exposing inadequate COVID-19-related safety procedures** at St. Joseph’s Medical Center in Bellingham. The trial court has now twice denied defense motions to throw out the case. We are working with Schroeter Goldmark & Bender. (*Lin v. Peace Health*)

Advocate

For the third year, the ACLU-WA trained activists and brought them together to lobby legislators about critical civil liberties bills for **virtual Lobby Week**. Supporters from 18 legislative districts attended virtual meetings with state representatives and senators. On January 16, we will return to the Capitol Campus for a hybrid week of in-person and virtual meetings with legislators. Join us.

Celebrate

We were a first-time presenting sponsor of **Sundiata: Black Arts Festival** at Seattle Center – the largest Black Arts Festival in the Pacific Northwest.

We hosted **Radical Hope: The ACLU-WA Annual Celebration** featuring an inspirational conversation between Michele Storms and **Valarie Kaur**, bestselling author of *See No Stranger* and founder of the Revolutionary Love Project. The evening was emceed by **Hollis Wong-Wear**, with a musical performance by **Shaina Shepherd**. We honored our 2022 Bill of Rights award recipients, who have shown up with great care for our communities: **Disability Rights Washington**, with special recognition for **Ethan Frenchman and Danny Waxwing**, winners of the William O. Douglas Bill of Rights Award; **Spokane Immigrant Rights Coalition**, winner of the Kathleen Taylor Civil Libertarian Award; and **Amarantha Torres-Flores and Talese House of Planned Parenthood Teen Council**, winners of the Youth Activist Award. Watch at aclu-wa.org/celebrate.

ACLU of Washington & Foundation 2021-2022 Combined Operating Budget

