

# Dear Friends of the ACLU

**Civil liberties are especially fragile in times of war.** Freedoms are all too easily sacrificed in the name of security. World War I was followed by the notorious Palmer Raids with roundups of radicals and deportation of non-citizens. World War II saw the detention of Japanese Americans. The Cold War abroad brought McCarthyism at home, branding people as enemies for their political views. Vietnam was marked by surveillance and infiltration of groups opposing government policies. The drug war continues to bring massively disproportionate convictions of African Americans and Latinos.

**Today we hear echoes of many of these earlier eras.** Roundups and secret deportations of immigrants ... citizens held without trial as “enemy combatants” ... dissenters labeled unpatriotic ... increased government powers to conduct covert surveillance and searches ... selective targeting of Arabs and Muslims.

**Yet each era is also different, bringing its special challenges.** Now we face threats to safety from hidden forces and the prospect of a never-ending war against terrorists, both real and imagined. In response, the government is embracing new technologies that make it possible to monitor all aspects of people’s lives and to store untold amounts of data about us. And this war is led by an Attorney General who has a penchant for secrecy, a vast appetite for more power, and contempt for people who question his policies.

**The ACLU is used to challenges.** In our 83 years we have weathered many tides that threatened to engulf liberty. We have seen that true patriotism means standing up for the Bill of Rights and resisting calls for throwing out the principles that are the foundation of our freedoms. Today we continue to insist that America must strive to be both safe *and* free.

**The ACLU is mobilizing unprecedented resources to meet current challenges.** We are filing lawsuits, advocating for the disempowered, lobbying in the halls of government, and mobilizing at the grassroots. Our education efforts include public forums, house parties, an extensive website, a monthly TV show, and more speakers out in the community than ever before. As you will see in this report, we are active around the state on many issues, and—even in this difficult climate—we are winning important victories.

**We are heartened by the support we have received in this time of crisis.** Since 9/11 the ACLU’s membership in Washington has risen an amazing 40 percent—and more people are joining our ranks each month. **We are grateful to our members both old and new, and we look forward to working together to give continuing life to the ideals of justice, fairness, and equality.**



*Timothy O. Kaufman-Osborn*

Timothy Kaufman-Osborn, President.



*Kathleen Taylor*

Kathleen Taylor, Executive Director

Today we continue to **insist** that America must strive to be both **safe and free.**

# Homeland Security

“True Peace  
is not the absence  
of tension, it is the  
presence  
of Justice.”

*Dr. Martin Luther King, Jr.*

## A Long Way to Go

“Thank you very much for taking the time to come out yesterday. These are hard times for my community and they are finding it difficult to come to events like these [for fear that] they are being watched. Some people thought that it was a trap and that INS was there to pick them up if they came. This is another hurdle that we have to overcome and make people feel that they are secure. We have a long way to go. I thank you again for being there for us.”

*Middle-Eastern immigrant*

## War on Immigrants

The War on Terrorism has all too often become a War on Immigrants. As non-citizens have borne the brunt of heavy-handed government policies, fear and anxiety have spread in Arab and Muslim communities. ACLU-WA 9/11 organizers Maritza Rivera and Devon Abdallah reached out to these communities, offering our assistance and educating people about their rights. The ACLU provided free legal representation to persons called in for questioning by the FBI and INS. Of special concern was a new federal program requiring people from Arab and Muslim countries to register with immigration officials, which resulted in some people being arrested for minor immigration violations that do not warrant incarceration. We developed and distributed flyers providing advice on the Special Registration Program, as well as on the FBI questioning of Iraqis after the onset of war.

Attorney General Ashcroft has pressured local police agencies to enforce immigration laws. The ACLU urged police around the state to resist the pressure, explaining that it would alienate immigrant communities from police and that police are not trained in the intricacies of federal immigration laws.

The ACLU worked with the Northwest Immigrant Rights Project, the Hate Free Zone Campaign and others to help officials understand that non-citizens would not report crimes or seek basic public services if they feared being turned over to overzealous immigration authorities. In January 2003, Seattle became the first city in the nation to adopt an ordinance prohibiting all city employees, including law enforcement, from inquiring into the immigration status of persons seeking city services.

The ACLU continues to represent two Somali merchants in south Seattle in seeking compensation for losses they suffered in a government raid in November 2001. Treasury agents seized their entire inventories in a raid on an unrelated wire transfer business in the same building. Though innocent of any wrongdoing, they incurred substantial economic losses from spoilage of inventory, damage to merchandise and the closure of their stores. Though the government has returned the \$40,580 in cash and checks it seized during the raid, their claims for compensation are still pending.

## Civil Liberties Resolutions

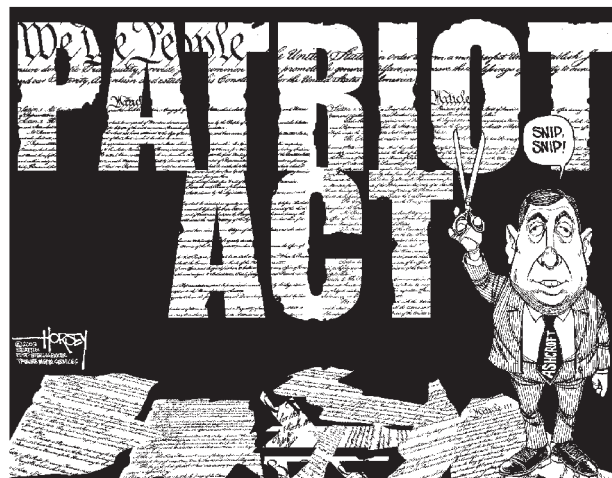
The government's broad-ranging attack on liberty has sparked a nationwide grass-roots movement of citizens concerned about preserving freedoms. Three states and 134 cities, towns, and counties representing over 16 million people have passed resolutions protecting civil liberties. In Washington, the ACLU has worked with activists in many communities to draft resolutions, plan strategy, lobby officials, and mobilize support. All of the resolutions have affirmed support for the civil liberties of all people and urged repeal of anti-liberty features of the PATRIOT Act. A resolution supporter on Bainbridge Island spoke for many when she said, "At stake is what our definition of America is."

In February 2003, Seattle became the first Washington city to adopt a Civil Liberties Resolution when the City Council unanimously backed a measure for which the ACLU provided extensive input in drafting. The following month the Bellingham City Council adopted its resolution by a 4-3 vote, a tribute to months of organizing by the Western Freedom Alliance, a coalition of local groups in which the Whatcom County ACLU-WA Chapter played a prominent role. The resolution movement scored further successes on Bainbridge Island and in San Juan County. In Jefferson County both the county council and the Port Townsend City Council passed resolutions. Student governments at the University of Washington and Washington State University adopted collegiate versions.

## Privacy at Bookstores and Libraries

In the McCarthy era, Washington's own Justice William O. Douglas wrote that if a person "can be required to disclose what she read yesterday and what she will read tomorrow, fear will take the place of freedom in the libraries, bookstores, and homes of the land." Those words ring especially true today in light of the concerns raised by the PATRIOT Act. Section 215 empowers the government to obtain records of a person's book purchases and library usage as part of an intelligence investigation, without evidence that he or she is suspected of committing a crime.

“Our definition of America is at stake.”



“Thank you so much for all the good work you do on the behalf of all Americans. After World War II the world said ‘Never Again.’ I hope that is still true.”

“Not in  
some time  
has it been so clear to me  
that our civil  
liberties are  
under attack  
every day.”

The ACLU-WA wrote to booksellers statewide offering free legal advice to any who receive subpoenas or search warrants seeking disclosure of customer purchase records. The ACLU also has encouraged libraries to educate patrons about the threat to their privacy by posting warning signs in branches, and we supported the Seattle Public Library’s plan to provide bookmarks about the PATRIOT Act in a dozen languages.

The danger to libraries posed by overzealous law enforcement was illustrated by an incident last summer in Kent. Acting on an unreliable tip that an unidentified person had viewed child pornography at a library terminal, Kent police—without a warrant—seized two computers from a King County Library branch. The ACLU provided legal advice to the library’s lawyers in their challenge to the unconstitutional seizure. The court ordered Kent to return the library’s computers at once.

### Anti-Terrorism Powers



*ACLU Board member Clarence Moriwaki speaking about the PATRIOT Act to the Japanese American Citizens League, at a forum sponsored by Densho.*

In the emotional aftermath of 9/11, lawmakers in Washington, DC—without serious debate—passed the PATRIOT Act, giving federal officials broad new powers without adequate checks and balances. The ACLU-WA has been playing a leading role in making sure the same thing did not happen in the Washington State Legislature. In the 2002 legislature the ACLU rallied opposition that blocked proposed laws granting new powers to use wiretapping. In 2003, we again successfully mobilized against anti-terrorism measures offered by the Governor and Attorney General. We pointed out that the proposed new laws were unnecessary because current state criminal statutes against assault, property destruction, and murder adequately cover acts that terrorists might commit.

Concerns about national security since 9/11 have provided the latest excuse for police to attack the Seattle Police Intelligence Ordinance. Passed in 1979 after revelations of the existence of hundreds of secret police files on activists, the law bars police from spying on people based on their political or religious views. Now, some Seattle police officials are claiming the ordinance is an impediment to law enforcement; similar unsubstantiated claims were made after their mishandling of the WTO protests in 1999. The ACLU provided extensive back-



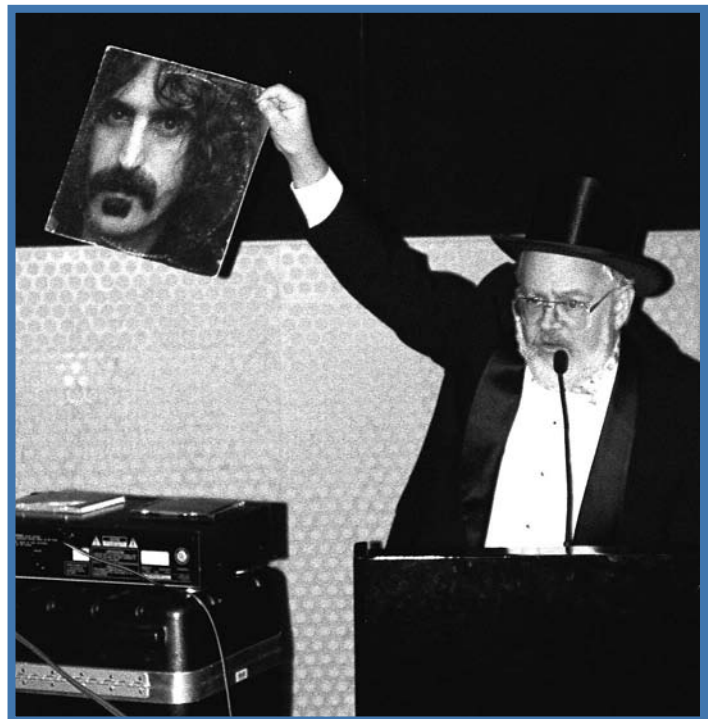
ground to the media and elected officials about the need for the law and made clear that the ACLU and its allies will strenuously resist any attempt to undermine its protections. The City Council responded by reiterating its support for the Intelligence Ordinance in the Civil Liberties resolution it adopted in February 2003. We remain vigilant as the Mayor's office is still contemplating possible changes.

### Community Education

We've found that the more people learn about the anti-liberty features of Bush-Ashcroft homeland security policies, the more they grow concerned and want to know what they can do to change these policies. The ACLU has mounted a broad-ranging education campaign to spread public awareness about the full scope of dangerous government actions. In the past year, ACLU speakers have taken our message to nearly 120 events around the state—from Rotary Club luncheons to forums in churches and libraries to assemblies at high schools and colleges to meetings of peace groups, political precincts, and organizations of lawyers. We have also run ads on television and on National Public Radio.

The ACLU also helped put together several large-scale events. We cosponsored "Civil Liberties Violated: 1942 and Today," a moving forum which compared the injustices of Japanese American internment with the treatment of Arab Americans today. We worked on "Justice for All," a Hate Free Zone Campaign hearing which presented personal stories of immigrants targeted by the government. We arranged for Barry Steinhardt, director of the ACLU's Liberty and Technology Project, to address Microsoft employees and a Town Hall forum that was later broadcast on radio. When the Law Enforcement Intelligence Unit held its annual conference in Seattle, we helped organize a forum that shed light on the activities of this secretive network of police surveillance units. For educators, we sponsored a special workshop on Teaching about Civil Liberties Since 9/11.

“Students wrote about your presentation in a number of their papers. You brought it **close to home** for them.... You have an excellent way of teaching/presenting—a way that **engages the students.**”



*Dr. Demento holds a Frank Zappa album during "Don't Hear This," a performance on music censorship co-sponsored by the ACLU-WA and Experience Music Project.*

# Freedom of Speech

I want to stand up  
for everyone's  
rights by supporting  
ACLU.

## Respecting Protest Rights

Upholding the First Amendment is more important than ever in times of crisis and controversy. As passions rose over U.S. military actions in Iraq, large-scale demonstrations became part of the political landscape. The ACLU urged the government to respect the rights of people to assemble and express their views. We helped organizers overcome hurdles to obtain permits. And we had observers present to monitor police conduct during demonstrations.

In response to numerous reports of free speech violations at peace rallies and marches in downtown Seattle, the ACLU called upon Seattle officials to show more flexibility in accommodating demonstrations. Demonstrators and bystanders alike described incidents of police arresting people who were simply walking on the sidewalk, confiscating signs, and blocking access of people conducting themselves peacefully.

In letters to and meetings with City leaders, the ACLU pointed out that the police actions highlight problems that we have urged the City to address ever since the 1999 WTO protests. The Seattle police force needs better guidance and training on handling demonstrations. Unless there is a genuine threat to safety, the ACLU urged, police should not declare the traditional public forum of the sidewalk off-limits to anyone. And when overflow crowds are too big for the small plazas in downtown Seattle, police should be prepared to respond in a way that doesn't escalate tensions or lead to needless arrests of peaceful people.

## Policing Speech at SeaTac

It is not the place of government employees to criticize citizens for their thoughts. Yet that's just what happened to New Jersey resident Seth Goldberg when his luggage was subjected to a security inspection at SeaTac. Among items in his suitcase were a couple of "No Iraq War" signs he had picked up in Seattle. After landing, he found inside his luggage a handwritten note on a Notification of Baggage Inspection card that read, "Don't appreciate your anti-American attitude."

Goldberg wrote the ACLU, and we contacted the Transportation Security Administration (TSA) objecting to its screener's inappropriate action. We called for the TSA to conduct training to ensure that its employees understand their professional responsibilities. The TSA let Goldberg know that it does not condone infringements of travelers' free speech rights and is educating staff about this policy.



## Expressing Views at Westlake Mall

Adjacent to downtown's main public plaza and built with public money, Westlake Mall holds a unique position in the heart of Seattle. This winter the ACLU received disturbing reports that security officers had told peaceful citizens to leave the mall for expressing political views.

In one incident, Beth Sanders was waiting in line to board the Monorail while holding an anti-war sign she had carried at a protest earlier in the day. She was told by a security guard to put down the sign or she would be forced to leave mall property. Other citizens reported receiving the same treatment. A man seeking a meal at the food court in March reported that a security officer told him to remove a small "No War" pin on his coat or leave the building. The ACLU urged mall management to recognize people's rights to express their views on political issues. Mall management has assured the ACLU that people can indeed wear political buttons at the mall and that political signs are welcome unless they cause a safety hazard. We'll be watching.



*Beth Sanders was told to lower her protest sign at Seattle's Westlake Mall.*

## Paying to March in Tacoma

The right to freedom of speech belongs to everyone, not just people with the financial means to pay for it. The government cannot prevent a group from holding a peaceful political march by charging a prohibitive fee. The ACLU is challenging the City of Tacoma's parade ordinance after City officials insisted that a group pay a hefty fee for police escorts as a condition of obtaining a permit to march in the street.

The lawsuit was filed on behalf of the Tacoma Leonard Peltier Support Group (TLPSG), a group that works to advance the rights of Native Americans. TLPSG has staged a political march on public sidewalks in Tacoma each year for the past decade without incident.

Anticipating higher attendance at this year's event, TLPSG coordinator Arthur Miller applied for a parade permit so that the group could march in the street. The City Clerk informed him that the permit would not be issued unless the group agreed to pay a minimum of \$1,000 for police escorts. TLPSG relies on volunteers and operates on an annual budget of approximately \$500. Like many other political organizations that have limited financial resources, it could not afford the fee.

To me, patriotism means standing up for the principles on which this country was founded, the principles that are in the Constitution.

I am **very grateful** to the ACLU.... Regardless of whether one agrees on all or even most of its issues, the ACLU plays a **vital and priceless role** in a society that would call itself **free**.

## E-Activism

ACLU online activists have played a vital and increasing role in stopping overbroad anti-terrorism bills and other anti-liberty measures. When E-activists mobilize, legislators learn quickly that constituents care about defending freedom. E-Mail Activist Network members receive alerts letting them know when important civil liberties bills are up for votes in Congress, the state legislature, and local governments. It's easy to join the Network: Just e-mail your name and postal address to [legislative@aclu-wa.org](mailto:legislative@aclu-wa.org).

The ACLU of Washington Web site ([www.aclu-wa.org](http://www.aclu-wa.org)) provides another handy and powerful tool for activists. The Take Action feature on our Home Page presents opportunities to speak out on a range of issues and to get involved in grassroots actions, such as monitoring a local courtroom. And the site provides abundant background information about the full spectrum of ACLU issues and activities.

The U.S. District Court in Tacoma declined to grant the ACLU's request for a Temporary Restraining Order against the escort fee. The march took place in February 2003 with 400 people walking on the sidewalk, which served to fragment the group as portions of the crowd stopped at various corners for traffic lights. Ironically, the police provided an escort without payment of a fee. The ACLU is proceeding with its challenge to the parade ordinance. Cooperating attorney James Donohue and Gail Gove, ACLU Public Interest Fellow, are handling the case for the ACLU.

## Speaking Freely at Spokane's Transit Plaza

Public sidewalks traditionally have served as forums for free speech. Public officials may not impose rules that prevent citizens from having the opportunity to communicate their ideas effectively in such forums. In June 2003, the ACLU and the Center for Justice filed a lawsuit in federal court challenging the Spokane Transit Authority's restrictions on freedom of speech on sidewalks at the downtown Plaza. The suit was filed on behalf of Donald Ausderau, a Christian minister, and the Peace and Justice Action League of Spokane. Both plaintiffs seek to speak with people and distribute informational materials at the Plaza.

The Spokane Transit Authority requires people seeking to exercise their free speech rights at the Plaza to obtain a permit in advance, which is an unconstitutional prior restraint on speech. The Authority grants permits for only two locations on the sidewalk surrounding the Plaza. Further, the agency issues permits for no longer than five hours a week for any individual or group, even though there has been no history of excess demand for sidewalk space. ACLU staff attorney Aaron Caplan is handling the case along with Center for Justice attorney David Blair-Loy.

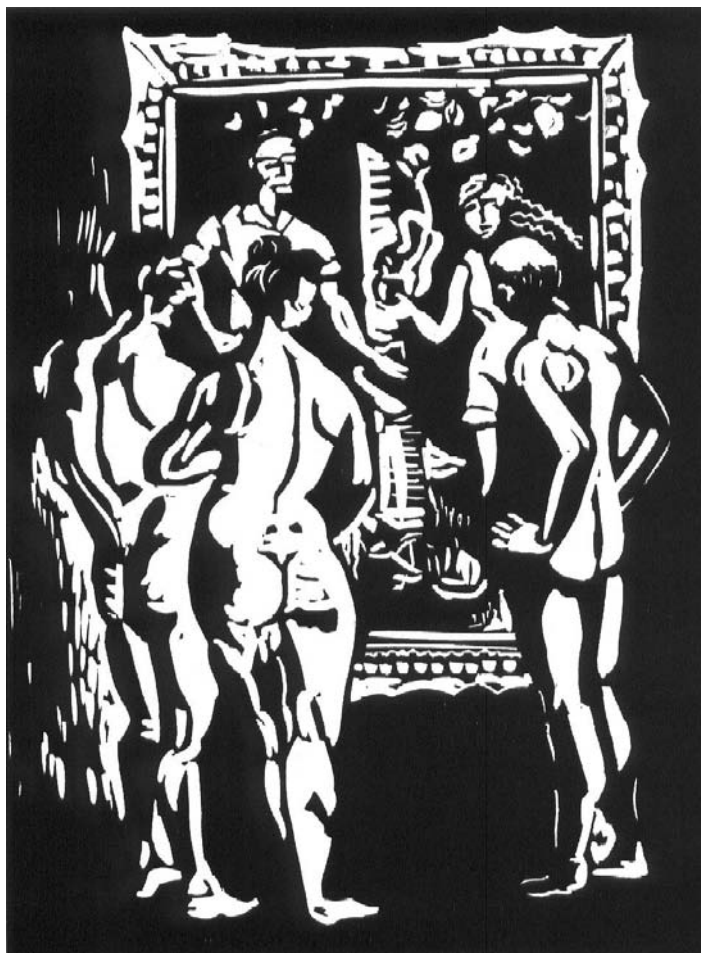


## Apologizing to Artists in Pasco

Concluding a seven-year *cause célèbre* in the arts community, the City of Pasco in March 2003 apologized to artists represented by the ACLU for having censored their artwork. The apology came after the U.S. Ninth Circuit Court of Appeals ruled in 2001 that the City violated the First Amendment rights of Janette Hopper and Sharon Rupp when it excluded their works from a program to display art at Pasco City Hall in 1996.

Pasco officials refused to exhibit a series of black-and-white linoleum relief prints by Hopper depicting Adam and Eve touring German landmarks and including some nudity. City officials said her pieces were not shown because they were “sexual” and “sensual,” and the City feared they might generate complaints from a local anti-pornography crusader. Officials told Rupp her sculptures were removed because of their sexual nature and because the City had received complaints about them. Among the works was a satirical bronze sculpture titled “To the Democrats, Republicans, and Bipartisans,” which showed a woman mooning her audience.

The City operated its public art program without a pre-screening process or any guidance as to what kind of work would be considered inappropriate. The City had previously exhibited other works of art with nudity and had no regulations barring works of art such as those submitted by Hopper and Rupp. ACLU attorneys Paul Lawrence and Dan Poliak represented the artists.



Adam and Eve Dressed, Janette Hopper

# The War on Drugs

“Thanks for taking our civil rights seriously.”

## Advocating for Policy Reform

The ACLU-WA’s Drug Policy Reform Project brings together the legal, legislative and communications work of the ACLU to combat the drug war in Washington. Under the leadership of Andy Ko, the Project has built opposition to drug war policies that threaten civil liberties, including racial profiling, suspicionless drug testing, asset forfeiture, and mandatory sentencing. The Project has served as a catalyst for change in cooperation with a wide range of local, state and national drug policy reformers.

The past year saw some continued progress in Olympia. Building on sentencing reforms enacted the previous year, the 2003 state legislature further reduced prison terms for nonviolent drug law offenders. When Congress moved in the opposite direction, passing a law making rave organizers and others criminally liable for drug-related activities of attendees, we helped mobilize local opposition.

Unfortunately, some police and prosecutors continue to interpret Washington’s Medical Marijuana Act to permit the seizure of medical marijuana, as well as the arrest and prosecution of seriously ill patients—even if the patient is clearly in compliance with the statute. The ACLU proposed changes to protect patients and caregivers from arrest and trial, and to prevent them from having to seek an unregulated source of medicinal marijuana. So far the Legislature has not been willing to fine tune the voter-approved law.

## Education about Harm Reduction

During the first week of December 2002, Seattle was the epicenter of the national drug policy reform movement as the Harm Reduction Coalition drew approximately 1,500 people to its international conference. The harm reduction approach to drug use attempts to shift focus from punishing people to minimizing the personal and social harms resulting from drug use. The ACLU sponsored a talk on alternatives to the drug war by Ethan Nadelmann, director of the Drug Policy Alliance and the preeminent national voice calling for an end to the war on drugs.

The ACLU took a leadership role in organizing the forum, “Race, Class and the War on Drugs,” which was cosponsored with the King County Bar Association, Washington Defender Association and the Loren Miller Bar Association. Forum presenters included many nationally known reform advocates and drew approximately 300 students, public officials, ministers, health care providers and lawyers.



To focus attention on policy changes, we organized a breakfast meeting to educate legislators about public health-based approaches as alternatives to the drug war.

### **Support for Methadone Clinics**

The lack of opiate substitution programs, such as methadone treatment, means that people who want to kick the heroin habit can't get help - only jail time. While some counties are supporting increased access to treatment, Snohomish County has been resistant—in spite of state legislation passed in 2002 that was intended to promote treatment options. The cities of Lynnwood and Everett imposed special restrictions or delays on proposed methadone treatment clinics. In Lynnwood, when a treatment provider sought a building permit, the City refused to process it, forcing the provider to sue.

The ACLU's Andy Ko testified at city council meetings in both cities on the need for expanded access to methadone treatment. The day following a front-page story in the county's leading newspaper featuring ACLU testimony at the Everett City Council hearing, a court ordered Lynnwood to process the local business license needed for the clinic to obtain its state certification. Everett recently withdrew its opposition to methadone treatment within the city.



*ACLU-WA Drug Policy Reform Project Director Andy Ko urges the Everett City Council to lift a moratorium on methadone clinics.*

*(Reprinted with permission of The Herald, Everett, WA. Photo by Joe Nicholson.)*

### **Sensible Marijuana Enforcement**

Laws criminalizing the possession of marijuana punish people who have not hurt others. To reduce this harm, the Sensible Seattle Coalition is advancing Initiative 75, a measure that would make investigation and prosecution of marijuana use by adults the City of Seattle's lowest law enforcement priority. The initiative would protect seriously ill people who use medical marijuana and would free City resources for services that actually improve the lives and safety of Seattle's residents.

About 90% of all marijuana arrests are for possession only, not growing or sales. In Washington, possessing as little as 1.4 ounces of marijuana can lead to a felony conviction and up to two years in state prison. People convicted of marijuana offenses are deemed ineligible for federal educational loans, public housing, food stamp assistance, certain forms of employment, and many other opportunities.

The ACLU is actively assisting the Sensible Seattle Coalition by providing legal and strategic support.

# Discrimination

“I may be too old—may never see the day when I will be **safe in my own country**, but maybe someday through the work of organizations like ACLU, there may finally come a day when all citizens are safe on our streets! **That is my hope** for my younger sisters and brothers.”

“Your information is very helpful. I support your **just help for folks that need it.** We are in a very difficult time, it is good to know that you are fighting for **the good of the people.**”



## Voting Rights for Ex-Felons

The right to vote is vital to citizenship. People should not be barred from exercising this right simply because they are impoverished. The ACLU-WA is working to reform state policies that deny the vote to tens of thousands of people after they have served their time in jail. Combined with racial disparity in our state's rate of incarceration, the current law results in approximately one-fourth of all African-American males in Washington being unable to vote.

State law bars ex-felons from regaining the right to vote until they have completely paid all their legal financial obligations assessed as part of their sentence. These may include court costs, fines, or restitution orders that are difficult or impossible to pay off for a low-income person (which most ex-felons are). The debt compounds at an annual rate of 12%. If individuals cannot pay all of the obligations within 10 years, they lose their right to vote permanently. To remedy this injustice, the ACLU drafted legislation that would enable ex-felons to regain the right to vote once they have completed their punishment, even though they may still be paying off monetary debts. The measure was advanced jointly with the NAACP and the League of Women Voters of Washington, and it has been endorsed by a number of other community organizations. To build support for reform, the ACLU held a press conference, made presentations to churches, social service agencies, and ex-felon advocacy groups, and distributed flyers explaining our bill.

Although the bill did not pass in 2003, the campaign educated legislators and communities of color about the issue's importance and generated support for next year's session.





*This anti-discrimination billboard, produced by the ACLU's ongoing collaboration with the advertising firm Cole & Weber, appeared at key intersections around Seattle.*

## **Housing for Farmworkers in Pasco**

Racial and class prejudices are not lawful bases for public policy. In January 2003 the ACLU filed a lawsuit challenging a City of Pasco zoning ordinance that prohibits community agencies serving low-income residents from the downtown area. The ordinance primarily affects Latino workers who have a right to housing in the community. The ACLU is representing the SeaMar Farmworker and Community Housing Development Association, a nonprofit agency barred from converting a vacant motel into inexpensive housing. SeaMar purchased the motel in April 2000 and made plans to convert it into farmworker housing. In May 2000 the City of Pasco instituted a moratorium on applications for any permits or licenses for community service facilities in downtown Pasco. The City amended its zoning code in 2001 to prohibit most agencies that serve the poor in the central business area.

The City's justification for eliminating these community services is that they "make the central business area of the City ... less desirable or attractive to the public ...". The ACLU suit argues that the City's goal of eliminating social services that attract poor people violates the Constitution. Mickey Gendler, chair of the ACLU Legal Committee, is handling the case.

"For the past few months, there has been an obnoxious billboard for a radio station [on my way to work]. Today I was very happy to see that advertisement replaced by the ACLU-WA billboard! What's even better, I saw a crowd of cyclists contemplating the board while they were waiting for the light to change. It was a good way to start the day!"

*ACLU member*



## Opting In to Protect Privacy

The ACLU believes that individuals should control what is done with sensitive personal information that government and businesses collect about them—information such as personal attributes, medical conditions, financial status, or personal interests that they wish to keep confidential. Recognizing this principle, the Washington Utilities and Transportation Commission adopted “opt-in” regulations requiring that communications companies get explicit approval of a customer before they can use information about what numbers the person calls and the length and frequency of calls.

Verizon is challenging this opt-in policy, claiming it violates the company’s free speech rights. In an amicus brief opposing Verizon’s claim, the ACLU argues that the Commission’s regulations simply restrict the use of personal data without customer approval. We point out that they do not restrict when Verizon may speak, what it may say, or to whom it may talk. The ACLU further argues the regulations are narrowly tailored to advance the government’s important interest in protecting consumer privacy. ACLU-WA Privacy Project Director Doug Klunder and cooperating attorney Sandra Victoria wrote the ACLU brief, which was submitted jointly with Privacy Activism, WashPIRG, and the Privacy Rights Clearinghouse.



Cartoon by Milt Prigee

## An Invisible Police Officer in the Back Seat

New technologies are threatening privacy in ways that used to be only the stuff of science fiction. Global positioning systems (GPS), for example, can track all the movements of a person or car without the presence of a police officer. The ACLU is working to put in place safeguards to make sure that freedoms are protected when government employs such high-tech surveillance technologies.

A first-in-the-nation case now before the Washington Supreme Court is testing police powers to deploy new technology for suspicionless surveillance. The case stems from an incident in which Spokane County sheriffs wired a GPS device to a person’s car to trace its movements. The ACLU contends that police must obtain a warrant in order to conduct such surveillance and that doing so without showing probable cause the individual has committed a crime violates the state constitution’s strong privacy protections. While prosecutors claim using a GPS is no different than the time-honored practice of a police cruiser tailing a vehicle, the ACLU asserts it is the intrusive equivalent of placing an invisible police officer in a person’s back seat. Doug Klunder wrote the ACLU’s amicus brief in the case.



## Jefferson County Jail

Conditions for inmates at the Jefferson County Jail in Port Hadlock will improve as a result of a settlement reached by the ACLU and Jefferson County officials. An 18-month investigation, during which we interviewed dozens of inmates and their families, former inmates, medical personnel, attorneys, and jail staff, found serious problems in the way people were treated at the jail. For example, prisoners were not provided enough basic hygiene supplies, such as toilet paper and feminine hygiene products, and instead were forced to use makeshift replacements, such as pages from telephone books, towels, or paper bags.

The settlement will resolve the class-action lawsuit over inhumane conditions that the ACLU filed in federal court in February 2002. Due to a disorganized and understaffed health care program, prisoners who requested medical help were often not seen by licensed health care professionals, and untrained jail staff often made medical decisions for the prisoners.

Under the agreement, the jail will upgrade its health care policies and practices and will remedy conditions that have led to extreme temperatures in winter and summer alike. The so-called “crisis cell”—a bare concrete room with a hole in the floor for a toilet—will no longer be used as discipline for infractions or misbehavior. The jail will also provide an adequate supply of hygiene supplies to all prisoners.

ACLU-WA staff attorney Aaron Caplan and David Fathi of the ACLU’s National Prison Project are handling the case. In the 1990s, the ACLU successfully pursued litigation over substandard conditions at the King County Jail, King County Juvenile Detention Center, Pierce County Jail, and Washington Corrections Center for Women at Purdy.

I just want to  
tell you how much  
I appreciate **the  
information  
you sent** and  
it is what I need.  
**Thank you**  
for taking the time  
to look for it and  
send it to me.

*Penitentiary inmate*



“If there were no ACLU we’d have to create it.”

## High-Speed Police Chases

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A series of high-speed police chases ending in crashes and sometimes the deaths of innocent parties has dramatized the need for improved standards for police pursuit. These dangerous chases threaten both people directly involved and bystanders.

For a decade, the ACLU has sought legislative action to set limits on this lethal police practice. The ACLU advocates that high-speed pursuit should be undertaken only when an officer can make the case that it is the only way to apprehend a highly dangerous person posing an imminent threat to safety.

In 2003 the Washington Legislature finally passed a bill sponsored by Senator Jeanne Kohl-Welles requiring that all police departments in the state have written policies covering vehicular pursuits. The measure also requires that new law enforcement officers receive training in how to properly take into account public safety concerns while conducting high-speed chases.

## Police Disclosure Policies

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The state’s Public Disclosure Act enables people to gain access to public documents, an essential way of holding government accountable to the citizenry. Public documents must be released even when the information may prove embarrassing to the government. Changes secured by the ACLU will help Seattle police better understand and fulfill their responsibility to provide documents.

In 2001, the Seattle Police Department (SPD) violated the Public Disclosure Act when it failed to disclose the “Ferguson Order,” a key document relating to police enforcement of the City’s “no protest zone” during the World Trade Organization demonstrations in 1999. The SPD had denied the “Ferguson Order” existed. The ACLU learned of it a year after we requested it when the Washington State Patrol gave it to a City Council committee.

In settlement of the suit in October 2002, the SPD agreed to establish clearer procedures for responding to public disclosure requests and will inform people making requests where the Department has searched for documents. Cooperating attorneys Scott Johnson and Laura Buckland handled the case.

In June 2003 the ACLU filed another suit seeking documents relating to Seattle police—this time the lists of topics to be discussed by the City of Seattle in its contract negotiations with the Police Guild. The

documents will help the public know whether the City is insisting on a strong, effective system for investigating allegations of police misconduct. ACLU-WA staff attorney Aaron Caplan is handling the case.



*Cartoon by Tim Dougherty*

## **Tacoma Police Accountability**

This spring's tragic murder of Crystal Brame, the suicide of Chief David Brame, and the revelations that the police department ignored allegations of abuse and rape against him shone a harsh spotlight on the need for reforms in Tacoma. Disclosures have made clear that Police Department's internal investigations system does not assure that misconduct complaints are promptly addressed or handled fairly.

The ACLU is seeking to focus attention on overhauling the city's system for police accountability. Tacoma's Human Rights Commission has established a working group to examine this issue and has asked the ACLU to play a significant role in its efforts.

We will insist on the importance of an effective means of civilian oversight in investigating police misconduct complaints. We also will advocate for an early warning system to identify officers who may need additional training or other intervention to avert more serious problems in the future.

# Student & Youth Issues



## Student Can Wear Political T-Shirt

Students face tough choices when they aren't being treated fairly at school. Will complaining hurt my grades, my reputation, my friendships? Will silence hurt my principles? The ACLU assists many students each year to resolve problems without going to court. A classic example featured Caleb Hayes, a politically aware seventh-grader in Shelton, who has a T-shirt that calls George W. Bush an "International Terrorist." This winter the administration told him he could not display the T-shirt at school because criticizing the President in such strong personal terms might be upsetting to others.

The principal quickly backed off after the ACLU reminded her of the U.S. Supreme Court's ruling in the landmark case *Tinker v. Des Moines*. In 1969, during the height of anti-Vietnam War protests, the high court found that a public school may ban student free expression only if it is likely to result in a substantial interference with the educational process or violate the rights of others. The ACLU pointed out that administrators should assume that students are mature enough and supervised well enough to handle controversial ideas. We noted that Hayes had worn politically oriented clothing to school in the past and had talked about his anti-war views on KIRO radio—without causing a problem at school.

## Reproductive Freedom: Confidentiality for Pregnant Teens

One of the latest tactics of anti-choice groups is to target the sexual partners of minors seeking abortions, attempting to get them charged with statutory rape. Urged on by a city police detective, a Spokane office of the state's Department of Social and Health Services (DSHS) started reporting to law enforcement all pregnant or parenting teens under 16 as potential statutory rape victims. The ACLU intervened, pointing out that this violates a minor's right to confidentiality in obtaining abortion and family planning services, and got the practice stopped.



*Scenes from the annual ACLU Student Conference, held at the University of Washington.*



## Okanogan Pays for Illegal Strip Search

Strip searches are intrusive and humiliating for anyone, let alone a 15-year-old girl. State law prohibits strip searches of individuals who are booked into detention facilities unless the person has been arrested for a violent offense or drug offense, or if there is reasonable suspicion that the arrestee is concealing weapons or other contraband.

In an ACLU case settled in October 2002, Okanogan County paid \$35,000 to a young woman for subjecting her to an illegal strip search at the county's juvenile detention facility in 1999. A guard at the facility strip-searched the then 15-year-old girl after she had been taken into custody for failing to appear at a truancy hearing. Authorities had no reason to believe that she was concealing weapons or contraband.

The search was conducted in a room containing a large window that looked out to a building entrance where people congregated, as well as before an open door, making it possible for other juveniles and detention staff to see the search in progress. The County changed its strip search policy for juveniles shortly after the ACLU initially contacted officials about the matter. Cooperating attorneys Trilby Robinson Dorn, Katherine Felton, and Ward Morrison handled the case.

## Lights Out for Curfew Law

The ACLU opposes juvenile curfew laws because they wrongly punish the behavior of law-abiding citizens and interfere with parents' rights to decide how to supervise their children. The government should not make it against the law for a young person simply to be outside.

We challenged Sumner's curfew law on behalf of Thomas Walsh, a parent who was fined for allowing his teenage son to go to a neighborhood convenience store during curfew hours on a summer night in 1999. The ordinance included an exemption for juveniles who are "on an errand as directed by his or her parent." However, when police stopped and detained Walsh's son, they refused to accept his statement that he was on an errand with his father's permission. When Walsh picked up his son at the police station, he confirmed that he had given his son permission to go to the store. Nevertheless, the police issued him a curfew citation.



*Justin Walsh and his father Thomas Walsh, ACLU clients who challenged the Sumner curfew.*

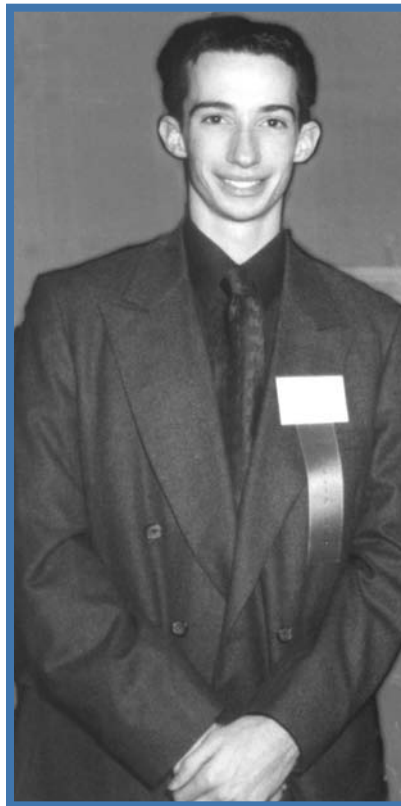
*(Photo by Dmitri Keating)*

“I cringe at the thought of what might happen to our country if people don’t stand up for what is right, even if they are standing alone. It is every person’s job to defend the civil liberties of others; there is not any other way to ensure that we will all remain free.”

In January 2003, the Washington Supreme Court struck down the City of Sumner’s curfew ordinance finding that its terms were too vague to apply in practice, that they give police arbitrary power to stop individuals that they do not like, and that the law’s exemptions are just as vague as the main part of the ordinance. Cooperating attorney Jennifer Shaw handled the case. The decision reinforced the 1997 ruling in which the Washington Court of Appeals overturned the City of Bellingham’s juvenile curfew law.

### **Puyallup Student Wins ACLU Scholarship**

Damian Ball, a senior at Emerald Ridge High School in Puyallup, received a 2003 Youth Activist Scholarship Award, one of 14 awarded



by the ACLU to high school students nationwide. Ball provided support and promoted tolerance for lesbian and gay youths as leader of his school’s Gay-Straight Alliance. Despite vocal opposition from local religious right forces, he and other GSA members sparked useful dialogues by participating in the National Day of Silence to dramatize the plight of gay teens.

“I cringe at the thought of what might happen to our country if people don’t stand up for what is right, even if they are standing alone. It is every person’s job to defend the civil liberties of others; there is not any other way to ensure that we will all remain free,” said Ball.

## Fairness Wins in Tacoma

A campaign supported by the ACLU won a tough battle to uphold civil rights protections in Tacoma. In April 2002 the Tacoma City Council by an 8-1 vote added gays, lesbians, bisexuals, and the transgendered to the city's ordinance banning discrimination in the public and private sector. The addition of sexual orientation and gender identity is vital because there is no protection for sexual minorities against discrimination under federal and state law.

Opponents of gay rights succeeded in placing on the ballot a measure to repeal the protections. Supporters of equal rights knew they had their work cut out for them because Tacoma voters had overturned similar protections soon after their adoption by the City Council several years earlier. Civil rights advocates formed Tacoma United For Fairness (TUFF) to campaign against the ballot measure. ACLU-WA Pierce County Chapter activists worked in the campaign, and the ACLU also provided legal and financial assistance.

In the November election, TUFF's work paid off with a clear-cut victory for the anti-discrimination law. Now, at least 20 cities and counties in the state in some way prohibit discrimination based on sexual orientation.

## Gay-Straight Clubs Gain Equal Rights

Fair treatment for some students cannot be made subject to the vote of a majority of other students. The ACLU has helped make this principle a reality for students at high schools who have organized a Gay-Straight Alliance (GSA) to promote acceptance for lesbian and gay students. The ACLU intervened at schools where GSAs were denied equal rights and advised school officials statewide of the need to change rules for student-organized clubs that may result in discrimination. We explained that federal law makes it clear that student clubs promoting tolerance for gay students are entitled to the same resources as other clubs.

“I am so excited that we have been able to have this big of an **impact** on the school. I am happy to know that the **club policy will be changed.** Also, I am so happy to know that we were able to **start a tradition** at our school **for years to come.** Thank you so very much.”



At Federal Way High School, the student government voted down the GSA's request to be recognized as a club. Student government status is important because it allows the club to do fundraising at school and to advertise its events through daily announcements and posters. No other club had been denied recognition by the student government. As a result of advocacy by the ACLU, school officials in March 2003 notified the GSA that it would receive equal access to school resources. Similarly, the GSA at Puyallup High School gained full-fledged club status after the ACLU notified the principal that it must be given the same access to resources that other non-curricular clubs have at the school. The GSA can now hold assemblies, publicize activities at school, and seek student government funding.



*Corrigan Gommenginger, founder of the Federal Way High School Gay-Straight Alliance, meets with ACLU staff attorney Aaron Caplan.*

“We trust you to continue  
the good fight to  
secure rights  
for those who are  
marginalized  
and  
overlooked  
in this culture.”

# Chapters and Clubs in Action

ACLU members in local communities play a vital role in the work of the ACLU. They serve as the ACLU's eyes and ears throughout the state, monitoring problems and advocating for civil liberties at the grassroots. In 2003 an energetic new chapter formed in Thurston County, joining existing chapters in Clark, Grays Harbor, Kitsap, Pierce, and Whatcom counties. The group got off to a rousing start as 65 people attended its kickoff meeting, featuring a talk by veteran ACLU attorney Sal Mungia.



*Members of the new Thurston County chapter of the ACLU-WA at their first public meeting.*

During the past year, chapters were active in the ACLU's mobilization to keep America safe and free, holding forums to educate the public about John Ashcroft's anti-liberty policies. The Whatcom County Chapter helped secure passage of a Bellingham City Council resolution critical of the PATRIOT Act, while the Pierce County Chapter worked to defeat a Tacoma ballot measure that would have overturned anti-discrimination protections for gays. The Kitsap Chapter examined racial disparities in discipline in area schools. Local activists took the ACLU's message to many community events, sponsoring booths at Tacoma's Ethnic Fest, the Grays Harbor County Fair, and "Super Saturday" at Evergreen State College in Olympia, among others. And the Clark County Chapter once again held a birthday party for the Bill of Rights at the Vancouver Library.

ACLU clubs are active at several campuses in Washington. They work to educate students about civil liberties issues, to advocate for civil liberties on campus, and to mobilize students around ACLU campaigns. They serve as training grounds for new generations of civil liberties activists.

All our student clubs—at Whitman College, the University of Washington, Seattle University Law School, and the University of Washington Law School—organized forums on campus to increase awareness of how the PATRIOT Act undermines freedom. The UW Law School club also sponsored speakers on the war on drugs and voting rights for ex-felons while the university's undergrad group hosted a speaker on rights with the police and distributed literature about reproductive freedom on the anniversary of Roe v. Wade. The Whitman Civil Liberties Union began the year with activities to mark Banned Books Week, then it examined the civil liberties implications of college policies in several areas. WCLU leaders met with the dean to discuss concerns about protection of the privacy of student library use and helped write a new policy on harassment at the school.



*ACLU activists Fred Rakevich, Lisa Riener and Kathryn Flory (age 91!) at an outreach event in Grays Harbor County.*



# Millions Hear Our Message

“Last night I saw an ad for ACLU membership. This is one of those periods of time when we should all become members and be ever so thankful for an organization like ACLU.”

## The ACLU on TV

“Speaking of Freedom” brings thoughtful discussion of hot civil liberties issues to television audiences. Produced by ACLU volunteers, the program has looked at banned books, gay rights, ethnic communities since 9/11, and music censorship. The half-hour show airs on the Seattle Community Access Network on the third Wednesday of each month at 7:30 p.m., and is rebroadcast on public access channels in Clark, Cowlitz, Snohomish, and Thurston counties.

“Thank you for all the work you do. Sometimes I get depressed with all that goes on, but when I read about your work it inspires me to keep trying.”

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

### Print

The Advocate  
Associated Press  
Bainbridge Review  
Bellingham Herald  
Bremerton Sun  
Chinook Observer (Long Beach)  
Eastside Journal (Bellevue)  
Herald (Everett, WA)  
Federal Way Mirror  
International Examiner (Seattle)  
Longview Daily News  
Mukilteo Beacon  
News Tribune (Tacoma)  
Olympian  
Omak-Okanogan County Chronicle  
Oregonian (Portland)  
Peninsula Daily News (Port Angeles)  
Port Townsend Leader  
Progressive Magazine  
Seattle Post-Intelligencer  
Seattle Times  
Seattle Weekly  
Shelton-Mason County Journal  
Skagit Valley Herald  
South County Journal (Kent)  
South Seattle Star  
Spokane Spokesman-Review  
Stranger (Seattle)  
Tablet (Seattle)  
Tri-City Herald  
University of Washington Daily  
Vancouver Columbian  
Vidette (Montesano)  
Walla Walla Union-Bulletin  
Washington Free Press  
Washington Law & Politics  
Wenatchee World  
Western Front (Bellingham)  
Yakima Herald-Republic

### Radio

CKWX (Vancouver, B.C.)  
KBCS (Bellevue)  
KEXP (Seattle)  
KIRO (Seattle)  
KOMO (Seattle)  
KPBX (Spokane)  
KPFA (Berkeley)  
KPLU (Seattle)  
KSER (Everett)  
KTTH (Seattle)  
KUOW (Seattle)  
National Public Radio  
Washington News Service

“The American Civil Liberties Union has done an excellent job of airing and defending civil liberties issues.”

*Geov Parrish, “A dozen rays of hope,” Seattle Weekly*

### Television

CVTV (Vancouver)  
KING (Seattle)  
KIRO (Seattle)  
KLTV (Cowlitz County)  
Seattle Community Access Network  
Snohomish County Community Programming  
Thurston Community Television

### Internet

LiP Magazine

As you have read in this report, the work of the ACLU has never been more demanding and our successes more gratifying. These accomplishments would not be possible without the financial investment of spirited Washingtonians who care deeply about the defense of liberty.

## Membership

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ACLU of Washington members now total more than 14,000. Through their annual dues as well as additional tax-deductible contributions to the ACLU-WA Foundation, they are helping us keep pace with the growing challenges. We believe the strong response to our membership recruitment efforts shows that more and more Americans understand the ACLU's role in protecting American democracy. And they do not agree that the government should violate civil liberties to prevent terrorism. Now as in earlier times, the ACLU membership—citizens who know that civil liberties are essential to our way of life—have been willing to stand up for freedom.

## Annual Fund Campaign

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Thanks to the energy and commitment of our Board of Directors and other dedicated ACLU volunteers, last year's Annual Fund Campaign raised over \$900,000—representing 49% of 2002 income. We especially thank the leaders of this important effort, the 2002 ACLU-WA Development Committee: Jean Robinson (Chair), Suzanne Holland, Theda Jackson Mau, Doug Klunder, Stan McInnis and Jesse Wing.

Through personal outreach and one-on-one conversations, Annual Fund Campaign volunteers develop and maintain strong ties with members and invite them to join them in making substantial yearly gifts. The Campaign has enabled tremendous expansion of ACLU-WA programs over the last decade. This remarkable partnership of our volunteer fundraisers and our contributors makes the ACLU-WA's daily work possible.

“Add your strength to the strength of the ACLU!”

“I really think the ACLU is the best investment one can make in these times.”

## Endowment Fund

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To date, the ACLU of Washington has raised \$4.2 million for our endowment program, The Trust for the Bill of Rights. The Trust ensures the ACLU's effectiveness by producing reliable income during difficult economic and political climates. Endowment funds provide the flexibility to strengthen our infrastructure and other areas that are key to our work, but may be out of public view. We are very grateful to ACLU members whose endowment gifts help us to fight current and future civil liberties battles.

“My law-abiding neck gets **very warm** under its law-abiding collar these days at the **extraordinary violations of fundamental laws** which are being put over.”  
*Albert DeSilver*  
1888–1924

## The DeSilver Society

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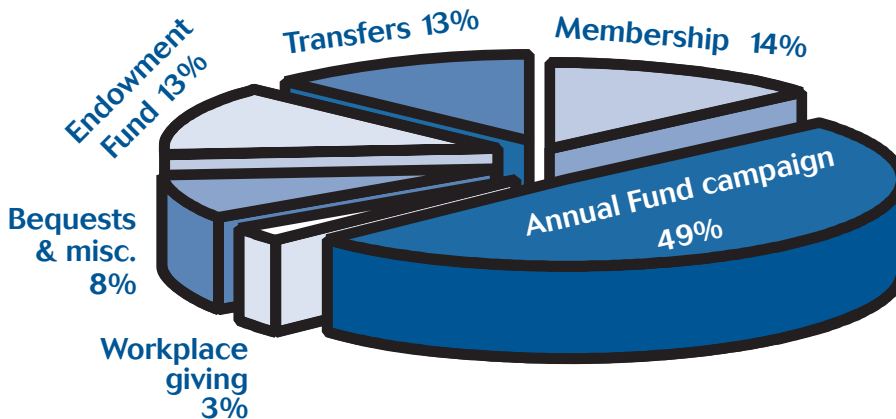
Among the founders of the ACLU was Albert DeSilver who, during his lifetime, provided more than half of the organization's annual operating funds. The DeSilver Society invites and recognizes dedicated citizens who help protect the future of free speech, fairness and equality by designating the ACLU in their will, trust, retirement plan, insurance plan or other planned gift. In 2002, ACLU-WA DeSilver Society members totaled 105. We thank them for helping to make the ACLU an effective, powerful voice for freedom and fairness for years to come.

(To learn more about ways to support the ACLU, please contact Development Director, Theda Jackson Mau at 206-624-2184, x261 or [jacksonmau@aclu-wa.org](mailto:jacksonmau@aclu-wa.org).)

# ACLU of Washington and ACLU of Washington Foundation 2002 Revenue and Expenditures

## Support and Revenue

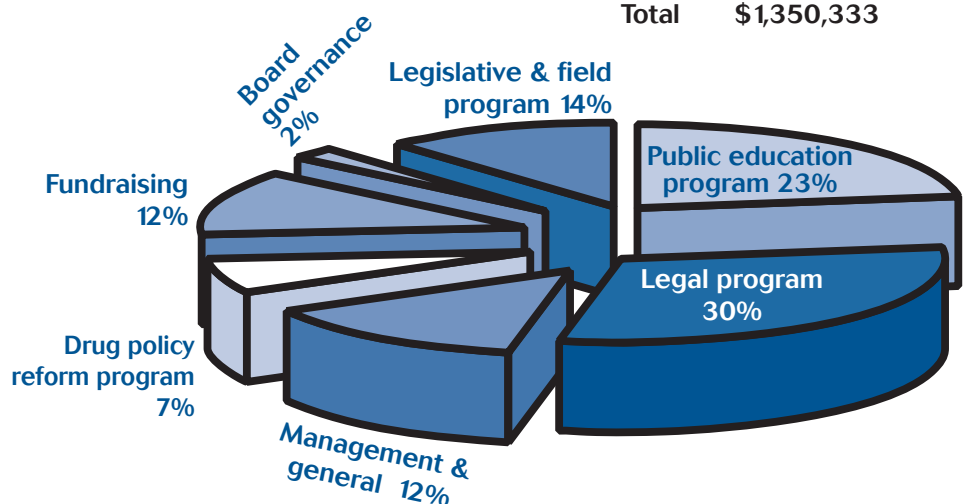
Membership	\$259,067
Annual Fund Campaign	\$942,092
Workplace Giving	\$ 54,629
Bequests and miscellaneous	\$159,849
Endowment Fund Income	\$247,894
Transfers from Designated & Restricted Funds	\$249,616
Less sharing with National ACLU	(\$290,945)
<b>Total</b>	<b>\$1,622,201</b>



## Expenses

Public Education Program	\$309,049
Legal Program	\$407,628
Legislative and Field Program	\$188,596
Drug Policy Reform Project	\$88,135
Fundraising	\$167,604
Board Governance	\$ 32,579
Management and General	\$156,742

**Total \$1,350,333**



# Thank You, ACLU-WA Volunteers

We salute these ACLU-WA volunteers for their commitment to the advancement of civil liberties. The dedicated efforts of volunteers on legal cases, office projects, fundraising, and educational outreach events are invaluable to our work.

Steve Abercrombie	Alice Erickson	Lorraine Kasprisin	Alan Rabinowitz	Kristine Villager
Lori Abramson	Ben Ewing	Sayaka Kawakami	Andrea Rabinowitz	David Walfish
Sheena Aebig	Bryce Felt	Chad Kearney	Rebecca Ragland	Charles Ward
Xóchitl Álvarez-Ponce	Holly Ferguson	Aaron Keating	Fred Rakevich	Jim Ward
Laura Anglin	Ingrid Fortunato	Dmitri Keating	Bruce Reeves	Nic Warmenhoven
Russ Aoki	Heather Francks	Jim Kimbrough	Betty Richardson	Colleen Waterhouse
Sarah Asbury	Bob Free	Marjorie Kimbrough	Paul Richmond	Phil Weiss
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Cafe Septieme  
Cole & Weber/Red  
Cell  
The Essential Baking  
Company  
The Pink Door  
Still Life in Fremont



# Thank You, Volunteer Attorneys

We are grateful to our volunteer lawyers for donating their valuable time and expertise to handle legal cases, speak in the community, raise funds, and analyze legislation for the ACLU.

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## **Skellenger Bender**

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Phil Ginsburg

Karolyn Hicks

Scott Johnson

## **Summit Law Group**

Mike Kipling

## **Tousely Brain Stephens**

Trilby Robinson-Dorn

## **Yarmuth Wilsdon Calfo**

Jordan Gross

## **and ....**

Mark Aoki-Fordham

Venkat Balasubramani

Kathy Barnard

Laura Buckland

Fred Diamondstone

Christina Entrekin

D.G. Foulke

Michael Garrison

Peter Greenfield

Leo Hamaji

Lucy Lee Helm

Elizabeth Kim

Doug Klunder

Amy Muth

Sal Mungia

Mariam Naini

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Michael Schein

Lisa Seifert

Jesse Soloman

Jeff Sowder

Traci Ann Sammeth

David Utevsky

Sandra Victoria

Kathy Weber

Lynne Wilson

David Zuckerman

“My work at the ACLU confirmed my decision to go to law school.”



*Cooperating attorney  
Venkat Balasubramani*

# Board and Staff

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---

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