

A stylized illustration of a diverse crowd of people wearing face masks. The figures are rendered in various colors (blue, orange, yellow, black, green) and are shown from the chest up, facing different directions. The background is a mix of these colors, creating a sense of a busy, multi-ethnic community.

# ACLU

## West Virginia

**DEFENDING  
CIVIL LIBERTIES  
IN A PANDEMIC**

*p. 8*

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# PRESIDENT'S LETTER

Dear Readers and Members,

First, I want to thank you all for your involvement with the American Civil Liberties Union of West Virginia. Without your continued support, we could not do the important work necessary to ensure civil liberties for our fellow West Virginians. There is still more work to be done. Keep up the pressure!

This year marks the 100th anniversary of the ACLU. The organization has been operating in West Virginia since its founding. In 1920, the ACLU sent staffers to West Virginia to investigate and document the infringement of civil liberties of mine workers who were being persecuted due to their union activities. This partnership with coal miners led to many of the protections enjoyed by union employees across the country today.



In 1943, the ACLU supported Jehovah's Witness children in the seminal case *West Virginia School Board v. Barnette*. The Court held that the First Amendment protects students from being forced to salute the flag or say the Pledge of Allegiance in public school. The breadth and beauty of Justice Robert Jackson's decision makes it among the most compelling explanations of the First Amendment ever put on paper. The most famous passage reads "[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein."

More recently, ACLU-WV has won hard-fought victories in criminal and juvenile justice reform, bail reform, and other issues surrounding civil liberties. Unfortunately, there have also been rollbacks of freedoms, and we will continue to fight for and protect vulnerable populations within the state during the ongoing pandemic. Although the pandemic has made presentations across the state impossible, ACLU-WV has been holding virtual town halls, phone banks, and letter writing campaigns, and we're continuing to make legal challenges where they are needed.

The staff of the organization has never been larger and more productive. Please consider donating today to guarantee that our important work continues.

Mountaineers are always free!

Best,

**JEFF MARTIN | PRESIDENT | ACLU OF WV**

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**Communications Director:** Billy Wolfe

**Community Outreach Director:** Mollie Kennedy

**Operations and Development Manager:** Rose Winland

**Criminal Law Reform Campaign Director:** Greg Whittington

**Immigrants' Rights Campaign Coordinator:** Jackie Lozano

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**JACKIE LOZANO**

**IMMIGRANTS' RIGHTS COORDINATOR**

Although West Virginia has one of the smallest undocumented populations in the country, we have the highest arrest and detention rates. Simply put: U.S. Immigration and Customs Enforcement (ICE) terrorizes immigrants in West Virginia. That's why it was so necessary that we create the position of immigrants' rights campaign coordinator.

Jackie Lozano was hired in that role in October. She works directly with immigrant communities to help them understand their rights and access services. She is also helping lead the Many Roads Home campaign, which tells the stories of immigrants living in our state.

Jackie is a DACA recipient and an active member of the community. Before joining the ACLU-WV staff, she took on the role of volunteer, activist and public speaker at numerous ACLU-WV events.

Previously she was an administrative assistant at Amherst-Madison, Inc. She enjoys learning about different cultures and music. She also enjoys attending community events with her son.



**GREG WHITTINGTON**

**CRIMINAL LAW REFORM CAMPAIGN DIR.**

Decarceration has been at the heart of ACLU's mission for 100 years, but as COVID-19 burns through prisons and jails, it has never been more important that we greatly reduce the number of people detained in these facilities.

In March, we finally were able to create the position of Criminal Law Reform Campaign Director. And there was no one better to take on that role than Greg Whittington. His hiring comes at a time when we are racking up numerous legislative wins for criminal law reform.

A native of Sissonville, Greg describes himself as the poster child for criminal law reform. In 1995, Greg was sentenced to 15 years to life in state prison. At the time of his incarceration, Greg read at a third-grade level but upon his release in 2010, he was the first prisoner in West Virginia's history to earn a Regent's Bachelor of Arts degree while incarcerated.

Since his release, Greg has helped mentor dozens of formerly incarcerated individuals, managed his own business, and became an advocate by writing articles, speaking at national civil rights gatherings, state legislative committees, and more. He has also helped develop programming including Nuday Recovery Home, Shaking Off Prison (A how-to guide for former inmates), and Project Normal (a program to aide in transitional issues for former inmates and family).



**ROSE WINLAND**

**OPERATIONS & DEVELOPMENT MANAGER**

With the retirement of our longtime office manager Monica Neal in December, Rose Winland joined the team as the operations and development manager.

In addition to keeping our office running, Rose also manages our donor database and helps plan our fundraising events.

Rose has a professional advertising and marketing background, serving most recently as communications coordinator for Auge Gray Drake Collective Works.

She is passionate about LGBTQ+ civil rights and women’s reproductive rights. She serves on the board of Women’s Health Center of West Virginia as a member of their Development and Event Planning committees.

Rose has two children who are now young adults. She can sometimes be found behind a microphone singing or in front of a camera acting in local productions.



**BILLY WOLFE**

**COMMUNICATIONS DIRECTOR**

Billy Wolfe joined our staff in July. As communications director, Billy helps us communicate with the news media, manages our online presence, designs our publications, helps plan events, and more.

Before the ACLU, Billy was the communications specialist for Fairness West Virginia, the statewide LGBTQ+ civil rights organization. Before that, he handled communications for the West Virginia Conservation Agency, a division of state government responsible for protecting water and soil resources.

A Morgantown native, Billy worked for more than 10 years in newspapers, with most of that time spent at the Charleston Daily Mail where he was entertainment editor. He lives in Charleston with his husband.

# STAFF ADDITIONS



# WE CAN BE BOTH SAFE AND FREE

# CIVIL LIBERTIES IN A PANDEMIC



By | Billy Wolfe

As a deadly and highly contagious virus was spreading across the globe, our staff began strategizing for the inevitable arrival of COVID-19 in the U.S. and in West Virginia.

Well before Gov. Jim Justice declared a state of emergency on March 16, ACLU-WV was monitoring and reacting to the many issues surrounding the outbreak.

Our staff has been working from our homes to coordinate with our national organization, our partners, community activists, cooperating attorneys, elected officials, news media and others to ensure that the government's response 1) is grounded in sound science, not politics or discrimination, and 2) respects core constitutional principles.

As many workplaces ground to a halt, ours went to work harder than ever. We have strongly advocated for our government's response to be data-driven and transparent, and to place the needs of marginalized and vulnerable people first.

Below are just some of our areas of focus during this unprecedented time.

## EMERGENCY POWERS

The use of emergency powers during a pandemic can be legitimate for measures grounded in public health. But history also teaches that our government is most prone to committing abuses in times of crisis. We have worked to ensure that broad emergency powers are never misused beyond legitimate needs.

When the governor issued a confusing and vague order barring travel to West Virginia, we responded. We called the order what it was – absurd. We also informed the governor in a letter that the order lacked due process provisions, among numerous other constitutional and legal concerns. He later admitted his order was “probably unconstitutional.”

The Legislature has also expressed concern about the use of emergency powers. A working group of the Joint Judiciary Committee has asked the ACLU to provide input on the emergency powers statute. We are also offering recommendations to protect the balance of powers and safeguard against executive overreach.

## INCARCERATION

People locked up in jails and prisons were already among the most marginalized in our society, but the pandemic has greatly exacerbated their



vulnerability. Because it is impossible to adhere to social distancing protocols in these overcrowded – and often unsanitary – facilities, those who are incarcerated or work in our prisons and jails have been sitting ducks for infection.

Many detainees are being held pretrial, meaning they haven't been convicted of a crime. In most cases, they are being held simply because they cannot afford bail. Wealthy people accused of the same offenses are able to socially isolate themselves in their homes as they await trial.

Across the country, we watched as simple misdemeanor offenses turned into death sentences for people the government refused to release until it was too late.

Along with our partner organizations, we immediately began advocating for the release of as many people as possible from state custody. We also filed two separate legal actions: a successful motion to unseal the state's COVID-19 response plan and another to release 39 at-risk individuals.

Our advocacy has been met with a mixed response from officials; at first, the incarcerated population was reduced (in some instances by as much as 30 percent) but those populations quickly began to increase again, despite the fact that COVID-19 was beginning to appear in our incarceration facilities. Our coalition's calls for universal testing in all facilities was finally agreed to.

As of this writing, there have been 119 confirmed cases in West Virginia's jails and prisons among incarcerated people and another eight among employees. We applaud the move toward universal testing but we expect this situation will only continue to worsen if bold action isn't taken.

Our advocacy on this issue will continue through and beyond the COVID-19 crisis. If anything, the pandemic has offered us all the opportunity to examine our system of mass incarceration as one that is ironically based in an obsession with public safety but is costing us our safety.

## CHILDREN AND STUDENTS

Technology provides us an opportunity to help students overcome the closure of their schools, but remote learning is not a sufficient remedy unless all students have access to the tools they need to participate fully and equally. The unsafe and inequitable manner in which West Virginia is providing remote learning to public school students isn't just unacceptable; it's also unlawful.

We published an open letter to the governor and other state officials demanding that inequities be addressed.

Students from low-income families, students of color, students with disabilities, and students who lack permanent housing will all struggle to receive the same education as their more privileged peers, now more than ever.

Furthermore, students must not be required to surrender their privacy or consent to being spied upon as a condition of receiving a remote education during the COVID-19 crisis. Specifically, ACLU-WV is calling on the governor to 1) ensure that all students have equal access to the various technologies that make remote learning possible and 2) ensure that adequate and uniform privacy protections are in place to protect students when they are engaged in remote learning.

Jail is never a place for a child, and during a pandemic, it's even worse. In fact, it can be deadly.

ACLU-WV is proud to join a coalition led by



ACLU-WV staff conducts a COVID-19 Town Hall to help our supporters better understand their rights during a pandemic.

the national Juvenile Justice Network to call for the mass release of as many juvenile detainees as possible. We also joined the #FreeOurYouth campaign to bring awareness on social media to the dangers of juvenile incarceration during a deadly pandemic.

## IMMIGRANTS AND PEOPLE OF COLOR

As the pandemic raged on, it became clear that Black people and people of color were being disproportionately harmed by COVID-19.

ACLU-WV has offered support to Black- and POC-led organizations in calling for the collection of racial demographic data of those infected.

Medical providers should not be inquiring about immigration status when administering testing or treatment for COVID-19. Public health depends on people getting tested and taking the proper steps if infected. If people fear detention or deportation could result from seeking medical care, then they are much less likely to seek testing and treatment.

In addition, all elderly and immunocompromised individuals in ICE custody should be released on personal recognizance immediately so that they can shelter in place, as health experts recommend. There is no reason to keep vulnerable people in unsanitary and crowded detention centers during this crisis.

Likewise, we must resist and call out any efforts to scapegoat certain groups of people for this illness. Viruses do not see race or ethnicity. There are already multiple reported instances of Asian Americans and Asian people living in other countries experiencing racism and even violence.

## VOTERS AND OUR DEMOCRACY

We advocated forcefully for the governor and secretary of state to allow every eligible West Virginian to vote absentee by mail, and our requests were approved.

With our partners, we also helped organize the nonpartisan Vote Together WV coalition, which is dedicated to voter turnout, education,

and engagement. Our volunteers placed tens of thousands of calls and text messages to registered voters in the state, helping them to navigate the changes to the primary election and the voting process in light of the pandemic.

This coalition of organizations and individuals includes the ACLU-WV, Our Future WV, WV FREE, WV Citizen Action Education Fund, and others. If past pandemics are any indicator, there could likely be a surge of new infections in the fall, and so we continue to advocate for no-excuse absentee voting process for the November general election.

We also organized a virtual Town Hall meeting to discuss civil liberties issues with our supporters across the state, so that they could remain informed of our work from the safety of their homes.

We cannot allow our democracy to suffer more than it already has, and we will continue to advocate in the safest manner possible to defend it.

## WORKERS

We support people who cannot afford to miss work or who lack paid sick leave, and we have advocated forcefully for elderly and other at-risk workers to be allowed to continue receiving unemployment if they don't feel they can safely return to work.

Likewise, we have continued to call on the governor to use his emergency and regular powers to indefinitely extend a moratorium on evictions during and after the crisis.

Unfortunately, both of these calls have so far been ignored. We are now running radio and Internet ads calling on West Virginians to contact the West Virginia Supreme Court of Appeals to demand that it protect people from losing their homes.

## PEOPLE EXPERIENCING HOMELESSNESS

On April 14, two individuals who lived in a tent encampment in the city of Wheeling returned to their home to find city crews destroying it with a bulldozer.

A few days before, city officials had told them they

# Thanks in part to our advocacy:

**30%**

Reduction in the number of people awaiting trial in WV jails.

**20%**

Reduction in total WV jail population.

**7%**

Reduction in total WV prison population

could stay there if they cleaned up the premises, an order with which they complied. The city crews came anyway. City officials then announced they planned to destroy more struggling people's homes.

It was a devastating moment for the encampment residents. In addition to \$100 in groceries and government-issued identification papers, they also lost irreplaceable belongings like an engagement ring and photos of children. Other nearby residents feared for their own safety and security.

City officials claimed they were responding to reports of crime, but they filed no charges against any resident of the encampment, nor did they bring a warrant with them. The destruction was also in direct contradiction of guidance from health officials.

The U.S. Centers for Disease Control and Prevention specifically advises against destroying homeless encampments during a pandemic. Doing so forces residents to scatter into the community rather than sheltering in place as health officials advise. This increases the likelihood of community spread.

We demanded that the city cease its plans to destroy more homes, and to find alternative housing

for those it displaced. We have also been working closely with members of the homeless community in Wheeling on potential litigation related to the destruction.

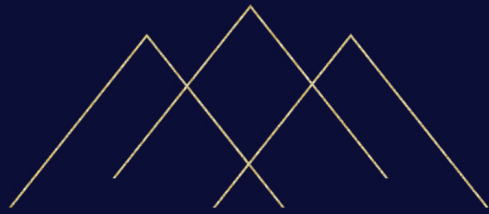
## ACCESS TO ABORTION CARE

We deserve state leaders who make our safety during the pandemic their No. 1 priority. Instead, we have officials like Attorney General Patrick Morrisey who exploited the emergency and used it as a guise to halt access to essential, life-saving abortion care.

Along with attorneys at ACLU National, we sued Morrisey and other state officials on behalf of West Virginia's only abortion clinic, the Women's Health Center of West Virginia.

Fortunately, not long after Morrisey's announcement, Gov. Justice rescinded his emergency order relating to health care facilities and we were able to file for the dismissal of our case.

WHC is again offering its full patient services, including abortion care without delay. Officials should make no mistake: we will rise to defend access to reproductive health care every time they to try attack it.



# MANY ROADS HOME

*Telling the Stories of Immigrants  
Living in West Virginia.*

By | Billy Wolfe

**W**est Virginia has one of the smallest immigrant populations in the country.

This dearth of immigrant voices in our state leads to many false assumptions, stereotypes and a lack of understanding of our immigrant neighbors. In fact, according to some metrics, West Virginia has the highest rate of anti-immigrant sentiment in the nation.

But the truth is immigrants add so much to the Mountain State.

They are 2.8 times more likely to open a business, and 2.5 times more likely to have a college degree than a native-born person in West Virginia. They also have a higher workforce participation rate and a lower unemployment rate than people born here.

Immigrants here pay an estimated \$125 million in federal taxes and \$51.9 million in state and local taxes each year. Even our tiny undocumented population pays an estimated \$5.1 million in state and local taxes annually.

And even if they did not contribute in terms of wealth and education, immigrants are human beings who deserve respect and the freedom to live.

Many Roads Home, a project of ACLU-WV and our partner organizations, seeks to change the narrative around immigrants in West Virginia by telling the stories of people who come from someplace else, but call our state home.

Those stories include Daniel, who escaped a brutal crackdown on political dissidents in the Democratic Republic of the Congo and took his family on a dangerous journey through multiple countries, nearly losing everything they had, before making it to safety in Charleston.

They include Paola, who is the only undocumented person in her family now because of the many quirks and impossible-to-navigate intricacies of our byzantine immigration system.

They include Ravi Isaiah, who sometimes felt shunned in his native India because he was raised in the Methodist Church and found community among fellow Methodists in the United States, only to sometimes feel shunned here because of his skin color.

We're telling these stories on Facebook and Instagram as we advocate for a more welcoming and just home for immigrants. If you are an immigrant living in West Virginia and want to tell your story, contact Immigrants' Rights Campaign Coordinator Jackie Lozano at [jlozano@acluwv.org](mailto:jlozano@acluwv.org).



# LUPE

“I am one of those who’ve crossed the border illegally.

I made my journey with my sister, and together we crossed the border at Tijuana. I was only 15 years old, and I knew I couldn’t make the journey alone. Although it was easier to cross the border in those days, our journey was still traumatic.

We hired a “coyote” who agreed to guide us and make sure we made it over safely. Least to say, that we got lucky, but even then, my sister was nearly raped in front of me.

We were escaping violence. We were escaping poverty. We wanted to live.

My sister had children, and we needed to get them out. I had my whole life ahead of me, and I wanted a better one. That is why we risked our lives. If you lived the way we did, you would understand. Just think, how bad must a situation be to make you want to leave your family behind and come to a country where you don’t know anyone? A place where you don’t even know the language? Would you entrust a complete stranger with your life, or even your children’s lives, just to get to safety? Just so they can have food in their stomachs, or the medicine that they need to live another day?

I hope your answer is yes.”

*Lupé*

# Bill of Rights Bash

By | Joseph Cohen

On November 16, 2019, civil libertarians from around the state gathered in Charleston for an evening of food, music and fellowship at the ACLU-WV Bill of Rights Bash.

The keynote speaker for the event was Nihad Awad, co-founder and CEO of the Council on American-Islamic Relations (CAIR), the nation's largest Muslim civil rights and advocacy organization. Mr. Awad spoke of misconceptions surrounding Islam and called for continuing solidarity with the Muslim community, especially in light of the Islamophobic literature displayed at the WV Capitol during the previous legislative session.

ACLU-WV also honored two champions of civil rights in the Mountain State. Sharon Lewis, now-retired Executive Director of the Women's Health Center of West Virginia – the state's only abortion provider – received the Roger Baldwin Award for her contributions to the state. Ms. Lewis is a legend in the reproductive rights and justice community, dedicating over 30 years of her life to ensure access to healthcare in one of the most hostile environments in America.

Tony Majestro, partner at Powell & Majestro PLLC,



Nihad Awad, co-founder and CEO of the Council on American-Islamic Relations, gives the keynote address.

received the Sid Bell Award for his contributions to the ACLU-WV. Mr. Majestro has been cooperating attorney in numerous ACLU-WV cases. He has also never hesitated to share his years of experience, acting as a mentor to ACLU-WV attorneys.

ACLU-WV staff and board members talked about the organization's work during this tumultuous time in American history. They publicly unveiled the Appalachian Queer Youth Summit, a summer camp style advocacy training for LGBTQ high school juniors and seniors. And they honored Monica Neal, who retired from the ACLU-WV staff after more than two decades as office manager.

Thanks to the attendees and the sponsors, the event was a smashing success. Sponsors included: Hill, Carper, Bee, and Dietzler, PLLC; Islamic Association of Charleston; Naomi and Harvey Cohen; Bali Surgical; Hissam, Forman, Donovan, Ritchie; Dr. Ghali Bacha, Toriseva Law; Dipiero, Simmons, McGinley, and Bastress, PLLC; Rainbow Pride of WV; Our Future WV; Larry Levine and Meg Squire; Dr. Abdul Rachman Zanabli; Greg and Lynn Clarke; Dr. Lo'ay Al-Asadi, WV Association for Justice; WV Center on Budget and Policy; Hamilton, Burgess, Young, and Pollard PLLC; Skinner Law Firm; Women's Health Center of WV; Women's March WV;



David Lawson entertains the crowd.



ACLU-WV Board Member Ibtesam Barazi greets attendees.

# LEGISLATIVE ROUND UP

By | Eli Baumwell

With a legislative agenda that covers as many issue areas as the ACLU, we expect every legislative session to be a mixed bag. The 2020 Legislative session was no exception.

There were significant victories in passing criminal law reform, but there were defeats as well, creating harsher sentences for certain crimes and weakening the barrier between church and state.

It was a busy session for ACLU-WV. We tracked and followed 531 distinct pieces of legislation – supporting 281 bills and opposing 192. We followed another 58 without taking a position.

We actively lobbied on 88 bills – for 50, against 32, and providing guidance on six.

Thirty-seven ACLU-supported bills passed. Of the 19 ACLU-opposed bills that passed, we were able to amend six of them to make them less harmful. The session got off to a quick start with the

Legislature continuing its ongoing attack reproductive rights with a bill called the “Born Alive Abortion Survivors Act” (HB 4007). Although the bill didn’t change anything of substance in the law (it is already illegal to murder an infant) its purpose was to stigmatize abortion care. The bill got its first hearing on just the second day of the session. Despite our opposition and the opposition of many of our partners, it sailed through committees and both chambers.

Entering the session, we identified criminal law reform as a key priority. A growing bipartisan consensus for reform, as well as relationships with unlikely allies in and outside the Legislature made us optimistic that we could see significant progress. A bill to create a West Virginia Sentencing Commission to examine criminal sentences (HB 4004) was taken up the second day, and ultimately passed. With support from ACLU-WV the Legislature also passed a bill to help people with prior convictions get occupational licenses (HB 4353), a bill to end the practice of suspending a driver’s license for unpaid fines and fees (HB 4958), a bill expanding expungement (HB 562), and additional reforms.

We were particularly involved in two long-term criminal law reform victories. Although bail reform has been a top priority for several sessions, it has unfortunately fallen just short. This year we were finally able to claim success.

The final bail reform bill creates a presumption that people charged with nonviolent misdemeanors will be released on their own recognizance, and requires courts to use the least restrictive conditions to ensure appearance for all other defendants. While not perfect, this has the potential to dramatically



ACLU-WV staff attend a public hearing at the state Capitol during the 2020 legislative session.



reduce the number of people who are incarcerated before they even get their day in court.

We also helped lead the way on a successful bill that requires reporting and a centralized database for civil asset forfeiture, the process by which the government seizes personal property of people accused of crimes. This new law will be an essential tool in understanding how asset forfeiture is utilized in West Virginia and creating accountability for abuses of this practice.

Defense and security issues were also prominent during the 2020 session. We supported the Defend the Guard Act (HB 2732) – a bill which would require a Congressional declaration of war before the National Guard could be deployed to a foreign conflict. Although that bill was defeated, it did result in a study resolution on undeclared wars.

The Legislature moved to codify the West Virginia Fusion Center (HB 4176) which has been operating under executive order for over a decade. The Fusion Center, which serves as a law-enforcement and intelligence clearinghouse, has virtually no transparency and accountability. While that bill did pass, ACLU-WV was instrumental in getting some oversight in place and initiating important conversations on domestic spying.

Finally, we joined a coalition opposing the West Virginia Critical Infrastructure Act (HB 4615). Mirroring similar legislation across the country aimed at chilling pipeline protests, this bill created enhanced penalties and expanded conspiracy charges for certain acts of civil disobedience. Although the bill passed, it was heavily amended and helps to preserve important free speech protections.

ACLU-WV also led on First Amendment concerns with a trio of bills aimed at introducing religious indoctrination into public schools.

Most egregious is a bill that cynically exploits the opioid crisis to allow faith-based drug-prevention electives (SB 42). Another bill allows schools to teach electives on the Bible (SB 38), and while the



ACLU-WV staffer Jackie Lozano rallies for immigrants' rights at the 2020 All Kinds Are Welcome Here Lobby Day.

bill prohibits proselytization, we know in practice enforcing that prohibition will be difficult.

A third bill expands religious liberties for students (HB 4780). As crafted, it creates the potential for students to proselytize at school events and to bully others under the guise of religious freedom. Unfortunately, all three bills passed. We will now closely monitor any school system that chooses to implement them.

Throughout the session, our members and supporters played a key part in our battles. We had a fantastic turnout at the "All Kinds are Welcome Here" lobby day, which we held with partners on Jan. 23. The ACLU was recognized during our lobby day with Senate Resolution 15, celebrating the 100th anniversary of our organization.

For the first time, we had a regularly updated online tracking list, allowing followers and legislators to see what we were following and our position. By the end of the session the COVID-19 crisis was already beginning. If the end of session left us feeling like there's more work to be done, the pandemic has drawn into sharper relief injustices that persist in our system. While we are not sure quite what the 2021 session will hold or what it will look like, we are even more aware that the fight for civil liberties continues.



# VICTORY

**T**he 2020 legislative session was a difficult one on many ACLU issues, but we also saw an amazing number of wins, particularly in the area of criminal law reform. Here's more on a few of the biggest victories this session.

1. HB 2419 – Requires judges and magistrates to release people charged with certain misdemeanor offenses without posting bail. In nearly all other cases, the “least restrictive” bail conditions must be applied. This will significantly lower the number of pretrial detainees, who often sit in jail not because they have been convicted of a crime, but because they cannot afford bail. **PASSED**
2. HB 4717 – Requires law enforcement to report civil asset forfeiture, the process by which the government seizes property of people accused of crimes. This will help create accountability and show where the government is abusing this power. **PASSED**
3. HB 4352 – Before passage of this bill, West Virginia unfairly kept many formerly incarcerated people from obtaining jobs like barbering or plumbing by denying them occupational licenses. This bill allows people to better themselves and become independent after serving their sentence. **PASSED**
4. HB 4004 – This bill created the West Virginia Sentencing Commission. Sentences are often not proportional to the crimes with which they are associated; newer crimes bear harsher penalties with high mandatory minimums than older, more serious crimes. The Commission will examine and recommend revisions to these disparities with an eye toward over-reliance on incarceration. **PASSED**
5. HB 4958 – If you can't drive, you could lose your job and fall even further behind on debts. That's why it's irrational for the state to suspend a driver's license for unpaid fines and fees. This bill allows people to enter payment plans instead of losing their licenses. **PASSED**
6. SB 623 – This bill, which would allow noncitizens to receive teaching certificates, passed the House of Delegates unanimously. Who has more to teach our youth than immigrants? We hope this is the first of many laws making West Virginia a more welcoming place. **PASSED**
7. HB 2685 – People seeking refugee status in our country shouldn't have to provide confidential information like health records to local, state, and federal government entities. The Refugee Information Act was an ugly bill that stigmatized certain immigrants. **DEFEATED**
8. SCR 4 – This radical proposal to impose term limits on members of Congress through an Article V convention is an untested method of changing the Constitution. It could have had grave consequences for civil liberties if passed. Thankfully, that will not be the case this year. **DEFEATED**

# LEGISLATIVE REPORT CARD

*We graded state lawmakers on more than 25 votes on bills concerning civil liberties issues this year. Here's how your legislators ranked.*

## SENATE

Mike Azinger (R - Wood, 03) ..... D-  
Stephen Baldwin (D - Greenbrier, 10) ..... A+  
Robert Beach (D - Monongalia, 13) ..... A  
Craig Blair (R - Berkeley, 15) ..... C-  
Donna J. Boley (R - Pleasants, 03) ..... D  
Mitch Carmichael (R - Jackson, 04) ..... D+  
Charles H. Clements (R - Wetzel, 02) ..... D  
Sue Cline (R - Wyoming, 09) ..... D+  
Douglas E. Facemire (D - Braxton, 12) ..... D-  
Bill Hamilton (R - Upshur, 11) ..... C  
Paul Hardesty (D - Logan, 07) ..... F  
William Ihlenfeld (D - Ohio, 01)..... B+  
Glenn Jeffries (D - Putnam, 08) ..... D  
Richard Lindsay (D - Kanawha, 08) ..... C  
Kenny Mann (R - Monroe, 10) ..... C-  
Mike Maroney (R - Marshall, 02) ..... D+

Mark R. Maynard (R - Wayne, 06) ..... D+  
Corey Palumbo (D - Kanawha, 17) ..... A+  
John Pitsenbarger (R - Nicholas, 11) ..... D+  
Robert H. Plymale (D - Wayne, 05) ..... C+  
Roman Prezioso (D - Marion, 13) ..... B-  
Rollan Roberts (R - Raleigh, 09) ..... D  
Mike Romano (D - Harrison, 12) ..... B-  
Patricia Rucker (R - Jefferson, 16) ..... D+  
Randy Smith (R - Tucker, 14) ..... D+  
Ron Stollings (D - Boone, 07) ..... B-  
Chandler Swope (R - Mercer, 06) ..... D  
Dave Sypolt (R - Preston, 14) ..... D+  
Tom Takubo (R - Kanawha, 17) ..... D+  
Eric Tarr (R - Putnam, 04) ..... F  
Charles S. Trump (R - Morgan, 15) ..... D+  
John Unger (D - Berkeley, 16) ..... C

# HOUSE

Bill Anderson (R - Wood, 08) .....	D	David Kelly (R - Tyler, 06) .....	D-
Michael Angelucci (D - Marion, 50) .....	C	Kayla Kessinger (R - Fayette, 32) .....	D-
Martin Atkinson (R - Roane, 11) .....	D	Larry Kump (R - Berkeley, 59) .....	C-
Tom Azinger (R - Wood, 10) .....	D	Cindy Lavender-Bowe (D - Greenbrier, 42) .....	C+
Trenton Barnhart (R - Pleasants, 07) .....	D	Daniel Linville (R - Cabell, 16) .....	C-
Jason Barrett (D - Berkeley, 61) .....	B-	Chuck Little (R - Wirt, 09) .....	D-
Kevan Bartlett (R - Kanawha, 39) .....	D-	Linda Longstreth (D - Marion, 50) .....	C-
Mick Bates (D - Raleigh, 30) .....	B+	Chad Lovejoy (D - Cabell, 17) .....	D+
Tom Bibby (R - Berkeley, 62) .....	D+	John F. Mandt (R - Cabell, 16) .....	D-
Brent Boggs (D - Braxton, 34) .....	D	Patrick Martin (R - Lewis, 46) .....	D
Sammi Brown (D - Jefferson, 65) .....	A-	Carl Martin (R - Upshur, 45) .....	D
Jim Butler (R - Mason, 14) .....	F	Zack Maynard (R - Lincoln, 22) .....	D
Andrew D. Byrd (D - Kanawha, 35) .....	D+	Pat McGeehan (R - Hancock, 01) .....	C+
Scott Cadle (R - Mason, 13) .....	D-	Tim Miley (D - Harrison, 48) .....	C+
Jeff Campbell (D - Greenbrier, 42) .....	D	Rodney Miller (D - Boone, 23) .....	D-
Joe Canestraro (D - Marshall, 04) .....	C-	Eric Nelson (R - Kanawha, 35) .....	C-
Moore Capito (R - Kanawha, 35) .....	D+	Jeffrey Pack (R - Raleigh, 28) .....	D
Mike Caputo (D - Marion, 50) .....	B-	Tony Paynter (R - Wyoming, 25) .....	B-
Roy G. Cooper (R - Summers, 28) .....	F	Dave Pethtel (D - Wetzel, 05) .....	C-
Daryle E. Cowles (R - Morgan, 58) .....	C-	Christopher Phillips (R - Barbour, 47) .....	B-
Vernon Criss (R - Wood, 10) .....	D-	Eric Porterfield (R - Mercer, 27) .....	F
Mark Dean (R - Mingo, 21) .....	C-	Mike Pushkin (D - Kanawha, 37) .....	A+
Phillip Diserio (D - Brooke, 02) .....	A-	Rodney Pyles (D - Monongalia, 51) .....	B+
John Doyle (D - Jefferson, 67) .....	B+	BenQueen (R - Harrison, 48) .....	D-
Joe Ellington (R - Mercer, 27) .....	D-	Andrew Robinson (D - Kanawha, 36) .....	D+
Paul Espinosa (R - Jefferson, 66) .....	D+	Ralph Rodighiero (D - Logan, 24) .....	D-
Amanda Estep-Burton (D - Kanawha, 36) .....	B	Matthew Rohrbach (R - Cabell, 17) .....	C-
Ed Evans (D - McDowell, 26) .....	C	Ruth Rowan (R - Hampshire, 57) .....	D
Tom Fast (R - Fayette, 32) .....	D-	Larry Rowe (D - Kanawha, 36) .....	A+
Barbara Evans Fleischauer (D - Monongalia, 51) ....	A	John Shott (R - Mercer, 27) .....	D
Shawn Fluharty (D - Ohio, 03) .....	A	Doug Skaff (D - Kanawha, 35) .....	C-
Geoff Foster (R - Putnam, 15) .....	D	Isaac Sponaugle (D - Pendleton, 55) .....	B-
Dianna Graves (R - Kanawha, 38) .....	D	Margaret Anne Staggers (D - Fayette, 32) .....	B
Danny Hamrick (R - Harrison, 48) .....	D	Brandon Steele (R - Raleigh, 29) .....	F
Caleb Hanna (R - Nicholas, 44) .....	D	Erikka Storch (R - Ohio, 03) .....	C
Evan Hansen (D - Monongalia, 51) .....	A-	Amy Summers (R - Taylor, 49) .....	D-
Roger Hanshaw (R - Clay, 33) .....	D	Randy Swartzmiller (D - Hancock, 01) .....	C-
John Hardy (R - Berkeley, 63) .....	D	Terri Sypolt (R - Preston, 52) .....	D
William G. Hartman (D - Randolph, 43) .....	B-	Cody Thomson (D - Randolph, 43) .....	B
Kenneth P. Hicks (D - Wayne, 19) .....	C	Robert Thomson (D - Wayne, 19) .....	D
Joshua Higginbotham (R - Putnam, 13) .....	D	Tim Tomblin (D - Logan, 24) .....	D-
Sean Hornbuckle (D - Cabell, 16) .....	A-	Christopher Toney (R - Raleigh, 31) .....	C-
John Paul Hott II (R - Grant, 54) .....	D-	Danielle Walker (D - Monongalia, 51) .....	B+
Eric L. Householder (R - Berkeley, 64) .....	D	Terry Waxman (R - Harrison, 48) .....	D
Gary G. Howell (R - Mineral, 56) .....	D	Steve Westfall (R - Jackson, 12) .....	D
Dean Jeffries (R - Kanawha, 40) .....	D	John Williams (D - Monongalia, 51) .....	B
Joe Jeffries (R - Putnam, 22) .....	D	S Marshall Wilson (I - Berkeley, 60) .....	B-
D. Rolland Jennings (R - Preston, 53) .....	F	Evan Worrell (R - Cabell, 18) .....	D+
John R. Kelly (R - Wood, 10) .....	D	Lisa Zukoff (D - Marshall, 04) .....	C-

# 3 CAM

By | Eli Baumwell

In 2019, ACLU-WV officially launched three campaigns to make a more just Mountain State.

The campaigns are designed to focus the work of the ACLU and integrate the work of policy, legal, outreach, and communications. By moving to a model of long-term campaigns we hope to make significant, lasting, systemic change.

For each campaign we have set ambitious, data-driven, achievable goals, which, if met, would signify major reform. We chose our campaigns based on where there is a need, where there is an opportunity, and where there is a need for leadership ACLU-WV can help fill.

The campaigns are Juvenile Justice Reform, Criminal Justice Reform, and Defending Democracy.

## JUVENILE JUSTICE REFORM

Our juvenile justice reform work really began in 2014 with the passage of truancy reform and the creation of the Juvenile Justice Reform Oversight Committee. It is imperative that we build on that foundation rather than let legislative attention slip away. Full reform will require a dramatic shift to focusing on identifying at-risk youth and connecting them and their families with appropriate resources and services before they become system involved.

We must also focus on building community-based services for low-level offenders and emphasizing rehabilitation in the exceedingly rare instances where incarceration is appropriate. Our goals for this campaign are to:

- Reduce juveniles in Division of Corrections and Rehabilitation detention by 75 percent.
- Reduce juveniles placed out of home by the Department of Health and Human Resources by 50 percent.
- Reduce out-of-home placement for status offenders by 65 percent.
- Reduce court referrals from schools by 50 percent.
- Eliminate disparate minority contact.

1

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# PAIGNS

## CRIMINAL JUSTICE REFORM

Our criminal justice campaign mirrors a growing bipartisan consensus that the levels of incarceration in West Virginia are unsustainable. We hope to seize this moment to radically reform how we approach criminal justice and become a national leader in reform.

Our campaign is broad. It covers the whole criminal process from policing practices to due process in the courts to alternatives to incarceration and reentry. We recognize that there are many ways to have success, but this campaign also includes measurable goals:

- 1) Reduce the number of people incarcerated in West Virginia by 50 percent.
- 2) Reduce complaints of excessive force by law enforcement by 50 percent.
- 3) Reduce pretrial detention by 90 percent.
- 4) Eliminate disparate minority contact throughout the criminal legal system.

## DEFENDING DEMOCRACY

The campaign to Defend Democracy is born not of momentum for positive change, but a need to stop ongoing attacks chipping away at our democratic system.

Since 2010, 25 states including West Virginia have added new voting restrictions, including voter-ID laws, making it harder to register to vote, and making it harder to vote by absentee ballot. Our campaign will primarily focus on reversing this trend and ensuring voting is as easy and accessible as possible.

We also understand a robust democracy is one where civil participation is high. This campaign will also allow us to focus on media literacy, civic engagement, and voter education. For this campaign we will measure success when we see an end to ongoing attacks to democratic participation, and when we see ongoing, serious, and successful efforts to expand and facilitate participation.

We work on a broad array of civil liberties issues. Here in West Virginia, we remain committed to protecting all these rights.

By narrowing our focus in proactive reform we believe we can be even more effective as an organization. We can drive lasting change that will make West Virginia an example for the rest of the nation.

We've been excited diving into this work, and we'll provide regular updates on our progress.

## POLITICAL CARTOON EXHIBIT

Thanks to active community members in Tucker County, ACLU-WV was able to show our Political Cartoon Exhibit as part of the ArtSpring event. We also put the exhibit on display at Taylor Books in Charleston for the Black Friday Art Walk, where we were able to discuss our work with hundreds of shoppers as they passed through the store.

## PREGNANT WORKERS FAIRNESS ACT IN D.C.

This year, we traveled to Washington, D.C. with a small group of fantastic volunteers to talk about the importance of passing the Federal Pregnant Workers Fairness Act. These West Virginia moms, small business owners, and strong community advocates shared their stories and the stories of other West Virginia parents.

# AT HOME

By | Mollie Kennedy

Throughout the year, ACLU-WV spends time in communities throughout West Virginia hosting trainings, film screenings, community conversations, participating in local events and conferences and more. Over the past year, we've held and participated in more than 75 events across the state and even traveled with volunteers to Washington, D.C. We love meeting advocates and activists from all over the state and talking about the issues that matter most to them.

## DIGITAL TOWN HALL

As COVID-19 forced all of us to quarantine ourselves in our homes, our staff quickly worked organize a digital town hall even where we discussed civil liberties issues surrounding the pandemic. As the situation unfolds, we will continue to find new ways to connect with our communities in ways that are safe and accessible.

## VOTER EDUCATION VIRTUAL PHONE BANKING

As we address the many ways West Virginians have been affected by the COVID-19 pandemic, we are working hard to educate voters on the changes to the primary election. Along with our partners, we created Vote Together WV, a statewide voter education effort. We are deeply grateful for our volunteers from the panhandles to the coalfields who have navigated the technology with us to make community phone banking possible.



## TRAININGS

We're committed to public education and training on a wide range of topics. Our staff has trained legal observers and provided Know Your Rights trainings across West Virginia. Along with some of our wonderful partners throughout the state, we've presented trainings and facilitated conversations on the legislative process, immigration and ICE activity, rape culture, implicit bias, racial justice, and protesters' rights.

## COMMUNITY FILM SCREENINGS

Along with our statewide partners and grassroots organizations, we hosted film screenings and panel discussions at several venues. This year we screened "No Choice," a powerful film sharing abortion stories and discussing the reality of abortions prior to Roe v. Wade. We were honored to participate in a community screening and panel discussion on the documentary short film "Outspoken," which highlights the Parkersburg LGBTQ community as they fight for nondiscrimination protections. Every Monday in October, we screened "Raise Hell: The Life and Times of Molly Ivins," a feature length documentary about the late progressive Texas firebrand.

## SOCIAL EVENTS

Our staff is always excited when we get to socialize with members of our communities. Every year, we try to provide social opportunities for members and supporters to meet like-minded individuals and get to know our staff such as our casual, but informative 'What the Heck Just Happened' legislative session wrap up, our annual 'Beer Not Bigotry' event, an Ugly Sweater Party and a civil rights-themed Halloween party. Our staff, board members, volunteers, and members gathered in McMechen, WV for our annual picnic. As always, we enjoyed some quality time spent together over great food and conversation.

## RALLIES, PROTESTS & DEMONSTRATIONS

We are always proud to take to the street with the amazing activists across West Virginia. Whether we are acting as neutral legal observers with our trained volunteers, speaking to our community, or part of the crowd, we know dissent is patriotic, and we're thankful to play a role in protecting civil rights and civil liberties.

## CAMPAIGN KICKOFF EVENTS

Executive Director Joseph Cohen and Policy Director Eli Baumwell went on a whirlwind tour of the state, holding eight events kicking off three long-term campaigns in just two weeks. We introduced our Criminal Law Reform, Juvenile Justice Reform, and Defending Democracy campaigns. We also talked about our aggressive 10-year plan to drastically reduce the number of incarcerated adults and children, end racial disparities in our incarcerated population, expand access to the ballot box, and more.

## ACLU-WV AT THE CAPITOL

In addition to a fantastic 2020 All Kinds Welcome Here Civil Liberties Lobby Day, we stood with West Virginians from across the state in several public hearings to push back against problematic legislation like the so-called critical infrastructure bill that was actually designed to silence and intimidate environmental protestors, a proposal to open up and change our Constitution through an Article V Convention, and multiple bills seeking to push religious instruction in public school classrooms.

# VOLUNTEER SPOTLIGHT

## JAMIE MILLER

By | Billy Wolfe

As the set was readied for the ACLU's national Rights for All campaign kickoff, Jamie Miller's hands were shaking uncontrollably.

In fact, they were shaking so hard she couldn't hold her microphone. After she dropped it several times, an event organizer offered to trade it out for one that clipped on the lapel of her shirt.

The reading glasses perched atop her nose served two purposes; they helped her see her notes but more importantly, they blurred out the crowd that had gathered in Durham, New Hampshire, to hear her and other activists from across the country speak about the presidential election.

Her voice quivered as she delivered an unapologetic introductory statement:

"I remember it like it was yesterday – buying a



Jamie and ACLU-WV staffers and volunteers spoke to lawmakers in Washington about the Pregnant Workers Fairness Act.

pregnancy test and hiding in a stall at the local mall, crying. A woman whose face I never saw spoke to me from behind the door. She said it would be okay, that I wasn't alone, and she gave me the number to the Women's Health Center. I will forever be grateful to her. I was 16. I called and scheduled an abortion. I was terrified. I scrambled to pull funds together, but I never once regretted that choice. I live in one of the poorest states in the country, and yet also one that just voted to take away Medicaid-funded abortion access. Forcing any woman to give birth because of her socio-economic status is barbaric and unjust."

Jamie, a Charleston artist, isn't afraid to stand up for people's rights.

She's endured multiple abuses including being followed and having her personal information posted on anti-choice websites because she regularly escorts patients in and out of West Virginia's only abortion clinic. She uses an umbrella to protect patients from a crowd of bullies who scream at them and try to record their faces on Facebook Live videos. She was arrested for participating in a sit-in at Sen. Joe Manchin's Charleston office over his vote to confirm Brett Kavanaugh to the U.S. Supreme Court. She even traveled with ACLU-WV to Manchin's Washington, D.C., office to confront him face to face over Kavanaugh.

But taking on the role of spokesperson in a national campaign kickoff? That was a lot of pressure for someone so uncomfortable with the limelight.



Jamie Miller attends a rally against Amendment One, a ballot measure that eliminated the constitutional right to an abortion in West Virginia

*“He was a popular boy and didn’t even know my name,” she said.”*

“It was the hardest thing I’ve ever had to do,” she said. “I cried every single time at practice. If it wasn’t for the ACLU, which carries so much power to help people, I probably would have said no. “I was representing not only myself, but any person who has had an abortion, anyone who has felt so powerless in that situation.”

Jamie is a survivor of sexual assault. As a teen, she was assaulted at a party by a boy from another school. Jamie became pregnant and decided to have an abortion.

In the years after, Jamie became politically active, protesting U.S.-led wars and other causes. But she never said anything about the incident or about her abortion.

But then she heard Dr. Christine Blasey Ford. Ford’s story accusing Kavanaugh of sexually assaulting her when they were young stirred traumatic memories. When the smear campaign

and death threats against Dr. Ford started, Jamie wasn’t surprised.

“People are scared of the power that truth holds,” she said. “Dr. Ford sacrificed herself in hopes she could stop this nomination. She’s a hero to me.” Jamie knew she had to share her story, too. The first thing she did was call her four children and tell them for the first time about the assault and her abortion.

“I was bawling as I told them what happened to me and how similar it was to what happened to Dr. Ford,” she said. Then she kept telling her story, and it started getting easier. In a matter of months, she found herself taking those actions against Kavanaugh’s nomination and eventually sitting on that stage in New Hampshire.

Jamie continues to volunteer at ACLU-sponsored events like the All Kinds Are Welcome Here Lobby Day at the state Capitol. In October, she traveled to Phoenix for the first-ever national ACLU training offered to our most dedicated volunteers.

“It was something that changed me forever,” she said about the training. “I have never been so uncomfortable. It opened my eyes, helped change my vocabulary and helped me grow. I am super thankful they asked me to attend.” Jamie plans to continue working with ACLU-WV whenever possible.

“I want to be involved with the ACLU because for the first time in my life I feel like I am really working for change in a movement,” she said. “As the state’s only abortion provider, Women’s Health Center of West Virginia has been targeted by aggressive, anti-abortion protesters who relentlessly harass patients and staff. She has fearlessly volunteered as a clinic escort for over a year now, and I have seen firsthand how she has positively impacted the experiences of our patients,” Quiñonez said. “She shows up for patients with compassion and understanding every single day that she is here. We are lucky to have her and our entire team of clinic escorts on our side.”

# JOIN THE FIGHT FOR RACIAL JUSTICE

By | Mollie Kennedy

In the wake of the murders of Ahmaud Arbery, Breonna Taylor, George Floyd, and the countless others before, many felt called to action. ACLU-WV is proud to see communities rise up in dissent to demand change and justice; to powerfully assert that Black lives matter, and that justice has been far too long denied.

At ACLU-WV we will continue to honor our commitment to support and defend historically disenfranchised communities and to tear down systems oppressing people on the basis of their race. Our staff has redoubled efforts for racial justice, implicit bias and anti-racism training, public education, criminal law reform, and more.

On behalf of the Berkeley County Unity Coalition, a group of Black-led civil rights and faith organizations in the Eastern Panhandle, we are investigating the treatment of protesters by Martinsburg police. Numerous people were arrested at a demonstration in late May. At least one protester appears to have been choked with a night stick, and one of those arrested on a simple misdemeanor charge had their bail set at \$12,000, a disturbingly high amount for such a low-level “offense.”

At the time of this writing, the situation in Martinsburg is ongoing and could potentially involve litigation.

We were honored to assist with the event “Surviving the Encounter: Virtual Rally Against Racial Injustice.” This live online gathering was

viewed by more than 7,000 people across the state and featured the powerful voices of elected officials and community leaders in solidarity.

We heard from:

- Jerry Carr Jr. (Morgantown-Kingwood NAACP Branch President)
- Romelia Hodges (Fairmont Alliance of Minorities Network Administrator; Governor’s African American Task Force Commissioner)
- Rosemary Ketchum (Wheeling City Council Candidate Ward 3)
- Jason Davis (Kyumei Ju Jitsu LLC Owner and Chief Instructor)
- Tina Gray-Russel (Candidate for House of Delegates District 27)
- Audra Slocum (WVU Associate Professor of English Education)
- Stephen Smith (Candidate for Governor)
- Jennifer Wells (Our Future WV Executive Director)
- Delegate Sean Hornbuckle (House of Delegates District 16)
- Delegate Sammi Brown (House of Delegates District 65)
- Delegate Danielle Walker (House of Delegates District 51)
- Ash Cutright (Morgantown Pride President)

We also heard from many of our white supporters who wanted to learn more about how to be better allies. So, the staff scheduled a training, “Dismantling Oppression: Anti-Racism & Allyship in 2020 America.”

The recent experience of Christian Cooper as he attempted to bird-watch in Central Park is an important reminder that racism comes from all corners of the political spectrum, including from those who come from progressive backgrounds. It is the responsibility of all of us to consider our own views, biases, and motivations, and to actively participate in the work of rooting out harmful beliefs and behaviors.

As protests continued throughout the country, our staff also provided an online Know Your Rights workshop to help West Virginians understand their constitutional rights while protesting and encountering police.

We know that racism is part of the fabric of American society. The deaths that sparked these protests are appalling, but they are not shocking.

**ACLU-WV IS  
PROUD TO SEE  
COMMUNITIES RISE  
UP IN DISSENT AND  
DEMAND CHANGE AND  
JUSTICE**

Though the work to curb police violence and address systemic racism in our policing and criminal justice systems has been ongoing for decades, new approaches and bold steps are required to address the excessive force and unlawful killing of Black people by police.

The ACLU is uniting in solidarity with the Movement for Black Lives to completely reimagine policing and to call for the divestment from police and the reinvestment in communities.

We hope that you will join us in our advocacy as we demand better for Black communities across West Virginia.



Panelists take part in the Surviving the Encounter virtual racial justice rally.

*The ACLU  
is uniting in  
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for Black Lives  
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reimagine  
policing*

# IT'S TIME DIVEST FROM THE POLICE

By | Staff

The underlying problem with policing isn't just lack of training and procedures – it's the broadening of their scope and responsibilities that has led to excessive force and the killing of so many.

Police in America are empowered to act as an occupying force in low-income communities and communities of color. Black communities live under persistent fear of being killed by police. And, as the policing presence in these communities has expanded, so have police budgets – with state and local governments allocating over \$100 billion a year to law enforcement.

Despite decades of work to curb police violence and to address systemic racism, we recognize that the current challenges demand bold, new approaches to this decades-old problem.

We need to fundamentally reimagine the role police play in our society, and that role has to be smaller, more circumscribed, and less funded with taxpayer dollars.

That is why ACLU is committing to reimagining policing by divesting from police and reinvesting in communities.

We are committed to significantly reducing the role, responsibilities, and presence of police in the everyday lives of communities that continue to be heavily policed and surveilled.

This massive shift will not only reduce the misguided, harmful abuse and harassment of impacted communities, but also allow for reinvestment into community-based services and alternatives to policing that are better suited to actual community needs.

ACLU-WV will be working to support Black-led community organizations to implement a three-part formula to bring an end our country's long nightmare with police violence:

- Prohibiting police from enforcing a range of non-serious offenses and eliminating many of the unnecessary interactions between the police and community members that have led to so much violence and so many deaths;
- Reinvesting savings from a reduced police force into alternatives to policing that will keep local communities safe and help them thrive;
- Implementing common-sense, legally-enforceable constraints so that there are only very rare instances in which police officers can use force against community members.

Taking these steps will improve safety, health care and health outcomes, and help create opportunities in communities of color that have suffered from decades of underinvestment in everything except police, racist policies, and their related punitive programs, all of which drive the mass incarceration crisis.

# HISTORY MADE

By | Billy Wolfe

West Virginia's 2020 Primary Election was a historic one in terms of strides toward inclusion in electoral politics.

Rosemary Ketchum served on the ACLU-WV board since from 2018 until she was elected to a seat on the Wheeling City Council. This made Rosemary the first-ever out transgender candidate to be elected to a public office in the state.

Rosemary, who is also a member of the Wheeling Human Rights Commission and associate director of NAMI of Greater Wheeling, an affiliate of the National Alliance on Mental Illness, ran primarily on issues surrounding homelessness, the opioid crisis and improving infrastructure. Wheeling

City Council's elections are nonpartisan. She said she is eager to take her advocacy for the city's most vulnerable people to the next level as an elected official.

"The work of an elected official is to reflect the values of their community in the actions of their leadership, which is exactly what I am prepared to do," she said.

With her seemingly endless amounts of energy, know-how, and enthusiasm, we can think of no one better to help the city of Wheeling move forward than Rosemary.

# STOP ICE ARRESTS

By | Jackie Lozano

Even in normal times, the detention centers run by U.S. Immigration and Customs Enforcement (ICE) are overcrowded, poorly ventilated, and unsanitary. In a pandemic, the situation becomes much more serious.

On any given day, ICE facilities house some 36,000 individuals – from asylum seekers to undocumented workers swept up in raids. At its peak last year, ICE had 50,000 people in its custody.

Overseen by an indifferent bureaucracy, these cramped prisons can easily become tinderboxes of infection, and thus, a threat to the health and safety of everyone.

While there are no ICE detention centers in West Virginia, people are regularly temporarily detained in our state's jails for alleged immigration violations, and the enormous rate of arrests by ICE in our state helps feed the facilities in other parts of our country.

Those arrests should stop immediately in the interest of public health.

Despite President Trump's pledge to go after "bad hombres," the overwhelming majority of people

arrested by ICE pose absolutely no safety threat.

With hundreds of confirmed cases of COVID-19 among detainees and dozens of staff testing positive, the government has begun to release some 700 detainees over the last couple of weeks out of fears the virus could become uncontrollable. Each released detainee was first evaluated for – among other things – potential threat to public safety, flight risk, and national security concerns.

If none of these people posed a safety or security risk, then why were they being held in cages in the first place?

Mass immigrant detention is a relatively new concept in the United States. Like so many other harmful policies, we are rightly reconsidering detention in light of this pandemic.

Soon things will return to normal. But let's hope this new normal no longer includes locking people up for being born in the wrong place or for wanting a better future.

In the meantime, ICE agents in West Virginia should do their part to flatten the curve by ceasing arrests and raids. ***Everyone's health is at risk.***



# DECRIMINALIZE

# CANNABIS

By | Mollie Kennedy

Following advocacy by ACLU-WV, the Morgantown City Council voted unanimously earlier this year to become the first West Virginia municipality to effectively decriminalize possession of cannabis.

It was an important first step. The ordinance lowers the misdemeanor crime of possession of fewer than 15 grams in city limits to a \$15 fine and no jail time. State code penalties can include between 90 days and 6 months in jail, and/or a fine of up to \$1,000 for simply possessing a plant.

The War on Drugs has been a major contributor to mass criminalization and incarceration, entangling hundreds of thousands of people in the criminal legal system, overcrowding jails, and wasting billions of taxpayer dollars.

At its heart, this is an issue of racial justice. Black people and white people use cannabis at comparable rates, but Black people were nearly four times more likely to be arrested for it, according to an ACLU analysis of arrest records from 2001 to 2010.

There are still many problems to be solved. Law enforcement officers could still choose to charge an individual under the state code. And while a \$15 fine is less of a burden, a misdemeanor charge can still have consequences like loss of employment or housing, suspended driver's license, restrictions on access to federal student loans, or threats to one's immigration status.

One ordinance at the municipal level cannot undo the damage of the War on Drugs and decades of aggressive drug enforcement policy, but this step is an important one. We are grateful to the Morgantown City Council for leading the way, and for all those who came out to express their support for this effort.

## ACLU-WV HAS CREATED A TOOLKIT TO HELP GUIDE ADVOCATES AND ACTIVISTS.

In a nation where support of full cannabis legalization is on the rise, it is past time to rethink our stance on cannabis, and to right the many wrongs inflicted on individuals, families, and communities by drug enforcement.

ACLU-WV has created a toolkit to help guide advocates and activists through this process. We are happy to share this with more communities and help those around the state make progress on this issue.



**MORGANTOWN  
LEADS THE WAY**



**BLOCKED ON SOCIAL MEDIA**

**THE RIGHT TO CRITIQUE  
PUBLIC OFFICIALS LIES  
AT THE VERY HEART OF  
THE FIRST AMENDMENT.**



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**DISMANTLE  
WHITE  
SUPREMACY**



**RELIGIOUS INSTRUCTION  
IS THE JOB OF:**

~~THE GOVERNMENT~~

**PARENTS/GUARDIANS**

**FAITH LEADERS**



**POLICE HAVE  
CONSTITUTIONAL  
DUTY TO AVOID  
EXCESSIVE FORCE**

**#BLACKLIVESMATTER**





ACLU

PROTEST IS ALL-AMERICAN.

BLACK HISTORY MONTH BLACK HISTORY MONTH BLACK HISTORY MONTH

“ Everything was so new. The whole idea of going into space was new and daring. There were no textbooks, **so we had to write them.** ”

KATHERINE JOHNSON



ACLU West Virginia

S I A L

@ACLU\_WV



TRANS PEOPLE WON'T BE ERASED  
ACLU West Virginia

UNIVERSAL TESTING SHOULD BE AVAILABLE FOR **EVERYONE** INCARCERATED OR WORKING IN THE CORRECTIONS SYSTEM **NOW.**  
35 ACLU WV



Michael Critchfield isn't done fighting for his rights as a transgender high school student.

# PROTECT OUR STUDENTS MICHAEL CRITCHFIELD'S STORY CONTINUES

By | Loree Stark

In February, ACLU-WV and Teresa Toriseva of Toriseva Law filed a notice of appeal on behalf of ACLU-WV client Michael Critchfield, and his parents, Caroline and Jon Critchfield. In November 2018, Michael—a transgender teenager—was harassed, bullied and degraded by an assistant principal at Liberty High School simply for using the boys' room.

ACLU-WV and Toriseva Law filed a case in Harrison County Circuit Court against the Harrison County School Board on Michael's behalf, but the circuit court dismissed the case in January. The case is now before the West Virginia Supreme Court of Appeals.

"The Circuit Court's ruling means that the school system cannot be held liable for this administrator's admitted behavior against a student," said Toriseva, lead counsel on the case and the chief executive officer of Toriseva Law. "We respect the judge, but we believe his legal analysis is wrong. It can't be that school boards have no liability for the admitted bad conduct of their own administrator.

The judge also erred by dismissing the case without

even allowing us to conduct a factual inquiry and investigation."

After the assistant principal harassed him in the bathroom, Michael's story quickly became the subject of national news, making headlines in publications including The Washington Post, Out magazine, and the Huffington Post. Meanwhile, people in West Virginia and across the country rallied to support Michael on social media and by contacting the school board to share their concerns about what happened.

The county school board voted not to renew the administrator's contract for the 2019 school year, but rescinded that decision just a month later. After it became clear that the school district would not act to protect Michael and other students like him, the Critchfields decided to file suit.

Both the Critchfields and the Harrison County Board of Education will submit briefs to the Supreme Court of Appeals. The Court may require an oral argument to be made by attorneys for both parties before it renders its decision.

# PRINCE

# & KNIGHT

By | Billy Wolfe

In November, ACLU-WV learned that the Upshur County Public Library had removed a harmless children's book at the urging of anti-gay residents, all because the book depicted a romantic same-sex relationship.

But following advocacy from ACLU-WV, the book, "Prince & Knight" by Daniel Haack, was returned to shelves.

The courts have already ruled on this issue and the constitution is clear: censoring or removing a book over something like LGBTQ+ content is a clear violation of library patrons' rights.

ACLU-WV Legal Director Loree Stark informed library officials in a letter of the constitutional concerns at stake, and ACLU-WV then followed up with a request for records relating to the decision to pull the book. Shortly thereafter, it was returned to shelves.

Public libraries are invaluable resources in our local communities because they provide all of us access to a diversity of ideas and information. LGBTQ+ individuals and families have every right to read books that reflect their lives.

As for the individuals who oppose the book because of its content? They remain well within their rights to simply not read it.

## VICTORY FOR THE FIRST AMENDMENT IN UPSHUR COUNTY

"Prince & Knight" will remain on library shelves



ACLU  
West Virginia

# DANIELLE

## KNOWS HER RIGHTS

By | Billy Wolfe

As excitement built around her campaign for Mayor of Beckley, Danielle Stewart began providing yard signs to her supporters. She knew the election was months away but at least one other candidate in a local race had begun erecting signs. And besides, supporters were simply placing the signs in their own lawns. There couldn't be a law against that, right?

Wrong. The city of Beckley has on its books an ordinance that restricts the display of political signage more than 60 days before an election. Danielle said city officials told her that her supporters would have to remove the signs. "A friend heard about what was going on and reached out to tell me I should contact the ACLU about it," Danielle said.

ACLU-WV sent a letter to city officials informing them that the ordinance is unconstitutional and should be scrapped, not enforced. Our letter also asked officials to publicly inform residents that the unconstitutional ordinance had been repealed. "After that letter was sent nothing else was said to me so my campaign went on with putting up signs," Stewart said.

Stewart, a newcomer to running for office, said laws like Beckley's tend to favor incumbents. "If everyone puts up signs at once we kind of cancel



Danielle Stewart campaigns for Beckley mayor.

each other out, and then the only name voters remember is the person who was already in office," she said.

Although it appears the ordinance was not further enforced, it has not been repealed to our knowledge. We will continue to monitor the situation and subsequent elections in Beckley going forward.

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# UNCONSTITUTIONAL ORDINANCES

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By | Loree Stark

## HOUSING

West Virginia municipalities including Charleston, Shinnston, and Bridgeport have in the past year enacted so-called “drug house” ordinances. The ordinances, which in some cases require a landlord to evict a tenant for allegedly unlawful conduct that occurs on the landlord’s property, are both unconstitutional and bad public policy: when enforced, the laws disproportionately affect women, domestic violence survivors, and communities of color.

These ordinances are constitutionally problematic for multiple reasons. Notably, because the laws typically do not provide tenants a meaningful opportunity to contest or appeal a municipality’s application of the law to the property on which they reside, affected tenants may have their constitutional rights to procedural due process violated. Further, enforcement of these ordinances makes it less likely for some tenants to report criminal complaints to the police because tenants may fear that they will lose their homes as a result. This potentially interferes with an individual’s First Amendment right to petition the government for redress of grievances.

ACLU-WV is working with other organizations and housing rights’ advocates to determine how the laws are being applied in communities where these ordinances are on the books and is advocating to stop the passage of these ordinances in communities that are considering them.

## PANHANDLING

In January, ACLU-WV notified the city of Dunbar that its proposed ordinance restricting panhandling in city limits was unconstitutional. In the letter to Dunbar Mayor Bill Cunningham and members of the Dunbar City Council, ACLU-WV Legal Director Loree Stark highlighted that the U.S. Supreme Court and lower federal courts have repeatedly affirmed that peaceful solicitations for charitable contributions are protected by the First Amendment.

Additionally, enforcement alternatives to anti-begging laws where public safety is concerned already exist. In West Virginia, state code already prohibits harassment, assault and battery, extortion, blocking an intersection, and jaywalking, among other offenses.

Multiple studies show that anti-panhandling laws also do nothing to address the underlying causes of homelessness, and that they actually waste precious public resources.

Criminalizing panhandling does not cure poverty or provide resources for individuals with addiction or mental health problems. Measures such as these ordinances merely move the needy out of sight and are not feasible long-term solutions for dealing with poverty. In 2017, ACLU-WV’s advocacy successfully stopped a proposed panhandling ordinance in Charleston.

Dunbar passed its ordinance against our advice. We will continue to monitor the situation to see whether the ordinance is enforced, an action that would likely violate the constitutional rights of residents.

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candidate-questionnaires](https://www.acluww.org/en/candidate-questionnaires)





# BLOCKED

In February, ACLU-WV notified nine elected West Virginia public officials and one local police department that they were violating the rights of constituents who they have blocked on Facebook and Twitter.

The notices were issued to West Virginia Attorney General Patrick Morrisey, Delegate John Mandt, State Sen. Mike Azinger, State Sen. Patricia Rucker, Delegate Tom Fast, Jefferson County Commissioner Patsy Noland, Fayette County School Board member Darrin McGuffin, State Sen. Mark Maynard, Monongalia County Commissioner Tom Bloom and the Parkersburg Police Department.

ACLU-WV sent the notices after hearing from constituents who had been blocked by the officials and entities on social media.

Last year, the Fourth Circuit Court of Appeals found that an elected official engaged in unconstitutional viewpoint discrimination in violation of the First Amendment when she banned a constituent on Facebook. In that case, *Davison v. Randall*, the Court found that the public official acted “under the color” of state law when she

banned a constituent from commenting on her Facebook page because she treated the page “as a tool of governance,” clothing it “in the power and prestige of h[er] state office.”

Case law in the Fourth Circuit is binding on West Virginia.

ACLU-WV’s letter outlined potential claims against the officials and entities. Unlawfully banning a constituent from a social media account violates both the First Amendment of the U.S. Constitution and article III, section 7 of the West Virginia Constitution. In the letter, ACLU-WV Legal Director Loree Stark noted “when a government official blocks or bans individuals from engaging on social media pages used to discuss public business because of the viewpoints the individuals expressed, they are unconstitutionally cutting off access to a place where constituents have the right to speak, listen, and debate on public issues.”

ACLU-WV plans to work with constituents who are still unlawfully blocked by the notified officials or entities to identify legal options going forward.

# NOT A FELON

By | Billy Wolfe

In August, thin-skinned, technically-not-a-felon coal baron Don Blankenship agreed to drop our client, Wonkette, from a bogus lawsuit targeting more than 100 individuals and media organizations.

He claimed all of these defendants, who ranged

from progressive news company Commie Girl Industries to the likes of Fox News personalities, Mitch McConnell and even Donald Trump Jr., conspired to cost him the 2018 Republican Senate Primary in West Virginia.

Wonkette's transgression? One of its writers accidentally referred to Blankenship as a felon one time, despite having carefully noted several times in the past that he was actually guilty of a misdemeanor in connection to the deaths of 29 coal miners at the Upper Big Branch Mine.

Blankenship came in third in the six-candidate race.

Media organizations have broad constitutional rights under the First Amendment to report on public figures like U.S. Senate candidates, and small websites and individuals rarely have the same access to resources as large media organizations.

The targeting of these entities represents a blatant attempt to stifle the First Amendment rights of the press. ACLU-WV will continue to defend these rights, as they form the foundation of our democracy.



Coal baron Don Blankenship was found guilty of a misdemeanor in connection to the deaths of 29 coal miners at the Upper Big Branch mine.



By | Billy Wolfe & Mollie Kennedy

Being a *kid* can be tough.

Being a *kid in rural Appalachia* can be even tougher.

But being a *queer kid in rural Appalachia*? That's its own special kind of tough.

Many people outside of our region might not think of LGBTQ people when they think of the hills and hollers of West Virginia, but we do exist. In fact, West Virginia is home to the highest percentage of trans-identifying teens in the nation, according to one recent study from the Williams Institute at UCLA.

These young people face unique obstacles while growing up in a rural, isolated region. Even in our supposedly connected age, it's still possible to go your whole childhood without ever meeting another member of the LGBTQ+ community face to face. That isolation can lead to despair, internalized homophobia, and transphobia. It can and does lead to death.

A new effort by ACLU-WV aims to change all of this. The Appalachian Queer Youth Summit will be a long weekend camp in summer 2021 that will break down those barriers of isolation.

The camp will bring together LGBTQ-identifying teenagers from across West Virginia to learn more about activism, civic engagement, and the core organizing principles behind the American Civil Liberties Union.

Perhaps most importantly, it will be a place where these young people can be themselves without fear of rejection and violence.

This camp will help establish a new generation of

people who will organize around their own issues and advocate for their communities.


Thanks to our generous funders and our partners at Amizade, campers will be able to attend at no cost. We will even reimburse travel expenses for those students who require it.

The inaugural Appalachian Queer Youth Summit was initially planned for the summer of 2020 but was unfortunately canceled due to concerns over the COVID-19 emergency.

Campers who were accepted for the 2020 program will instead be able to participate in a series of digital gatherings, trainings and group work focused on making change in their communities over the next year. They'll also help advertise and recruit for 2021, and they'll work with ACLU-WV and our partner organizations to create safe online spaces for their peers.

We can't wait to see all of you at Camp Virgil Tate next year!





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