



ISSUE 1, VOLUME 48, SPRING 2012



Make your reservations now for our March 10 Liberty Dinner.

This annual gala provides crucial funds for ACLU's legal and education programs.

Our generous sponsors include **Ayers Creek Farm, Bean Investment Real Estate, Morel Ink, Lane Powell, Fantasy for Adults Only, Stoel Rives, Willamette Week, A to Z Wineworks & REX HILL, Cat Cheng Graphic Design, FamilyCare, Perkins Coie, Ransom Blackman and Tonkon Torp.**

The keynote speaker will be syndicated sex advice columnist Dan Savage whose **"It Gets Better"** video project on YouTube has focused much-needed attention on preventing gay teen suicides. Millions have participated and been inspired by the **"It Gets Better"** project since it began in September 2010. Alarmed by gay teen suicides, Dan Savage is showing LGBT youth around the world that "it gets better."

With his frank, funny advice on sex and relationships, Savage creates a safe space for all audiences to honestly discuss "taboo" topics. **"Dying is easy," says Savage. "Coming out is hard."**

"This will not be a typical boring 'rubber-chicken' event" says Bill Patton, ACLU of Oregon board member. "It is going to be a very fun evening. Dan Savage will entertain and inspire us to continue the fight to protect our civil liberties."

Charles Hinkle will present his namesake award, the Charles F. Hinkle Distinguished Service Award, to Doris Ennis, honoring her for 38 years of volunteer service to the ACLU. Read more about Doris and her contributions to the ACLU of Oregon on page 4.

Reserve your place now at www.aclu-or.org/dinner or contact Gail Anderson, Development Director, at 503.552.2101 or ganderson@aclu-or.org.

REPRODUCTIVE FREEDOM UNDER ATTACK IN OREGON AND NATIONWIDE

Even as a firestorm of criticism recently prompted the Susan G. Komen foundation to abandon its plan to put an end to its cancer-screening partnership with Planned Parenthood, the Obama administration was being strongly criticized for its decision to require most employers to provide birth control coverage to their employees.

Across the country, efforts to roll back and limit access to birth control and abortion – and to restrict funding to Planned Parenthood – have become highly aggressive, well-coordinated and more successful than ever before.

Last year, Kansas legislators acted to prevent federal funds from going to Planned Parenthood that were intended to provide primary health care services to low income women. Only a lawsuit by the ACLU prevented the Dodge City Family Planning Clinic from shutting its doors.

In Arizona, lawmakers went even further, cutting off funding for non-profits serving victims of sexual violence if they provided information about abortions to their clients. Again, an ACLU lawsuit protected the reproductive freedom of women who are victims of domestic abuse and sexual violence.

Here in Oregon, we also face serious challenges to women's health and freedom in 2012. Two constitutional amendment initiative proposals have been filed for the November ballot. One proposal (IP #25), which would ban the "use" of "public funds" for any "abortion," has a certified ballot title and is cleared for collecting signatures. The other (IP #22) is a "person-

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ATTACKS ON BIRTH CONTROL THREATEN WOMEN'S EQUALITY

FROM THE EXECUTIVE DIRECTOR

Having recently attended the ACLU's Nationwide Staff Conference in Orlando, I've been thinking a lot lately about the critical work the ACLU accomplishes not only here in Oregon, but in every state, district and territory across this country.

You'll read elsewhere in this issue about the work we are doing here to protect women's access to reproductive health care, especially to abortion services and birth control. We face the possibility of two anti-choice ballot measures in Oregon this year: a "personhood" amendment and a proposal to prohibit any public funding for any abortion.

It's one thing to defeat anti-choice ballot measures in Oregon – and we have successfully done that for the past 35 years – but it's something entirely different in a southern state like Mississippi. That's why it was so great to spend a few days sharing stories with our colleagues from the ACLU of Mississippi about how they defeated a "personhood" amendment last November. And they didn't just win; they won by a 58% to 42% margin.

Still, that hasn't put a stop to the continued pressure in Congress and in the states to cut off funding for Planned Parenthood, greatly expand anti-abortion restrictions, and to restrict access to birth control for the millions of employees of Catholic and other religiously-sponsored hospitals and social service agencies.

Since when have religious employers ever been able to discriminate against lay employees on the basis of gender? The answer is not since the passage of state and federal civil rights laws in the 1960s and 70s. It has always been understood – at least until now – that when a religious institution enters into the general marketplace, it needs to follow the laws that apply to all other types of businesses.

This is not a novel concept. One of the mainstays of civil rights law has been that religious institutions can only engage in what would otherwise be unlawful discrimination when hiring clergy and other personnel that carry out core ministerial duties.

It has also been well understood since the 1970s that for a woman to gain equality in the workplace, she must be able to have some measure of control over her reproductive health. Without meaningful access to contraceptives and other reproductive health care options, laws against sex discrimination in employment would be a tantalizing vision that could never be achieved in the real world.

The Obama Administration's proposal to require that employer-provided health insurance plans provide coverage for contraceptives, while at the same time not requiring religious employers to pick up that cost, would expand both the government's protections for women in the workplace and the accommodation of religious views in our nation's civil rights laws. On balance, ACLU believes it is an important step forward.

Over my thirty years working for the ACLU I have come to expect periodic ballot measures seeking to restrict access to abortion. But I never thought we would see the return of attempts to restrict access to birth control. After all, effective contraceptives are the best tool for preventing the need for abortion.

Is this 2012 or 1962? ACLU co-founder Roger Baldwin, ACLU Executive Director from 1920 to 1950, liked to say that "No civil liberties battle ever stays won." Once again Roger has been proven correct.

The ACLU has never been a stronger advocate for civil liberties and civil rights than it is today. ACLU staff and volunteers collaborate nationwide every day to protect and advance freedom. The forces that would like to turn back the clock and reverse the victories that have been won can never succeed as long as we are part of the landscape of America. Thanks again for your support.



David Fidanque

FORCING STUDENTS TO STAND FOR PLEDGE OF ALLEGIANCE IS WRONG

Reciting the Pledge of Allegiance during morning announcements is just part of the school-day routine for many students. Yet, for other students, the choice to remain seated and silent during the Pledge is an important exercise of their rights to freedom of speech and religion. Jeff Mason, a fifth grade teacher at Highland Elementary School in Reedsport, OR, battled for his students' right to remain respectfully seated during the Pledge for twelve long years before he called the ACLU of Oregon. Although federal law, Oregon law, and Reedsport School District policy all prohibit compelling public school students to participate in the Pledge of Allegiance, faculty and staff members at Highland Elementary School routinely forced their students to stand during the daily recitation of the Pledge, singling out students for public embarrassment if they attempted to invoke their right to remain seated. During Jeff's attempt to safeguard the rights of Highland Elementary School students, he faced significant intimidation and hostility from school administration and staff. At one point, Jeff's former principal even ordered him to force his own students to stand for the Pledge, but Jeff knew that to do so would be against the law and reached out to his union for help. After enduring years of meetings and letters that never resulted in the school's full compliance with the law, Jeff turned to the ACLU.

On December 15, 2011, the ACLU of Oregon sent a letter to the superintendent of Reedsport School District, informing him of the problems at Highland Elementary School and reminding him that coercing students to participate in the Pledge of Allegiance is unconstitutional. Since 1943, the law has been clear that public school students cannot be forced to recite or otherwise participate in the Pledge of Allegiance against their will. In the case of *West Virginia State Board of Education v. Barnette*, the U.S. Supreme Court found that the right to remain silent during the Pledge of Allegiance to the United States Constitution flows from the First Amendment. Just as the First Amendment protects our right to express our beliefs, it prohibits the government from compelling us to declare a belief that we do not hold. As the *Barnette* court wrote, "If 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." Oregon law also explicitly recognizes the right to not participate in the Pledge of Allegiance ORS 339.875 requires only that those who do not participate in the salute must maintain a respectful silence.

Shortly after receiving the ACLU's letter, Highland Elementary School made dramatic changes to ensure the constitutional rights of its students. On January 3rd, the introduction to the Pledge was revised to inform students that they "have the option to stand for the Pledge of Allegiance or remain silently seated." The principal also reviewed the school policy

at a January 4th staff meeting, explaining to the staff that they must comply with the law by permitting students to remain seated during the Pledge.

As Jeff Mason wrote in a letter to the ACLU: "Now, the Bill of Rights may be something more than a topic we briefly study in our Social Studies curriculum. It will now be a part of every child's life. It will be a part of every day's introduction to the Pledge of Allegiance. Every adult staff member and every child will be reminded every day, before we salute the flag, that we all have the option to participate in the Pledge, or not. And that no coercion, intimidation, or ridicule of any kind, will fall on those that elect not to participate in the Pledge. That's following our Constitution and participating in our democracy; that's learning about our Bill of Rights."

Emily Garber, a recent New York University Law School graduate, has been a working with the ACLU of Oregon for several months and greatly contributed to the successful resolution of the Pledge of Allegiance matter in Reedsport. In 2009, while still a law student, Emily was a summer legal intern for the ACLU of Oregon. For the past several months, Emily has volunteered to coordinate our Legal Intake Program as she prepared for the Oregon bar examination. She recently passed the New York and New Jersey bar exams and soon will be sworn in as an attorney in those states. We have greatly appreciated Emily's work with us and wish her the best as she launches her legal career.

GUARDIANS OF LIBERTY: Sustaining Freedom's Defense

You Make the Difference

Guardians of Liberty are a special group of members who make monthly donations that support our work defending the freedoms guaranteed in the Constitution and the Bill of Rights.

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The program is easy for you and efficient for us—with more of your contributions going right to work on our most urgent campaigns.

Help us fight against efforts to undermine our basic freedoms, become a Guardian of Liberty today.

Go to www.aclu.org/sustain to sign-up online. It's fast, easy, and secure.



Doris Ennis

VOLUNTEER DORIS ENNIS TO RECEIVE HINKLE SERVICE AWARD

In 2010, the ACLU Foundation of Oregon created the Charles F. Hinkle Distinguished Service Award to be given to “honor individuals whose extraordinary record of service to the ACLU of Oregon exemplifies the highest commitment and perseverance in allegiance to the

mission of protecting and advancing civil liberties and civil rights.” Charlie was the first recipient of this new award.

This year, Doris Ennis has been selected to receive the Charles F. Hinkle Distinguished Service Award for her decades of service to the organization. Doris began volunteering in the ACLU of Oregon office in 1974 when the youngest of her six children went off to elementary school. Over the past 38 years, Doris has volunteered in the ACLU office on a near-weekly basis. Her regular duties have been to assist staff in keeping membership records accurate. On her watch, our membership records have evolved from paper, to microfiche, to computerized databases to the current web-based application.

When not helping with the membership records, Doris is willing to help out with any clerical task we throw her way.

Doris also served on the ACLU of Oregon Board of Directors for seven years. She was appointed to the board in 1977 and was then elected to two successive terms.

The bravery of the ACLU in standing up for gays and lesbians and protecting a woman’s right to choose are reasons she first wanted to help the ACLU.

“I volunteered for the ACLU because I didn’t see anyone else doing these things effectively,” Doris said in a newsletter interview in 1999. “I couldn’t believe all that work I read about happened out of that tiny office [in Portland].”

Doris and her late husband, Ralph Ennis, were stalwart attendees at ACLU functions for years. Doris has been an avid traveler throughout her adult life. After touring the world, Doris has come to appreciate the accessibility of the freedoms we have in the United States. Her travels have also helped her see how important civil liberties are, especially women’s issues.

Through Doris’ dedicated service spanning five decades, she has acted as an additional staff member, pitching in to get the work done. In appreciation of her commitment, loyalty and service, the Board of Directors has chosen Doris Ennis to receive the Charles F. Hinkle Distinguished Service Award at the 2012 Liberty Dinner on March 10. Tickets to the dinner may be purchased online at www.aclu-or.org.

LOOKING AT STUDENT DISCIPLINE

A “data team” that includes the ACLU of Oregon is making significant contributions to efforts to expose the state’s “School-to-Prison Pipeline.”

As part of our effort to shine a light on Oregon’s School-to-Prison Pipeline – the disproportionate discipline of students of color in Oregon’s schools – ACLU of Oregon has been working with a coalition of organizations in an effort to ensure that the Oregon Department of Education (ODE) annually release student discipline data, broken out by race.

Under Superintendent Susan Castillo’s leadership, ODE has agreed to develop a data tool for easy access to the public from ODE’s website, which the department plans to start rolling out in early spring.

Oregon Department of Education staff have begun meeting with representatives from our larger coalition to provide updates and to get feedback as they develop this discipline data tool.

Organizations represented at our first “data team” meeting include: ACLU of Oregon, Urban League of Portland,

Salem/Keizer Coalition for Equality and Stand for Children. In addition, a representative from the Confederated Tribes of the Grande Ronde will join the data team in our next meeting with ODE, and we possibly will be joined by the Commission on Asian and Pacific Islander Affairs as well.

We are pleased to report that, in response to our coalition’s ongoing efforts, ODE is creating a highly functional and graphic tool for researching disproportionate discipline of students from different racial and ethnic backgrounds. Once this data becomes easily accessible, groups in Oregon that are working to address this issue will have an important tool available to measure the results of new policies and programs that aim to eliminate this disparity.

The concern of ACLU and the organizations with which we are working is the disproportionate discipline of students of color in Oregon’s schools, which is pushing students out of the education system and into Oregon’s juvenile justice system. For more information, please go to our website and view ACLU of Oregon’s School-to-Prison Pipeline report published in late 2010.

POLITICAL SIGNS FACE A PROBLEM IN EUGENE

For more than five years, a Eugene resident has maintained a large sign in his front yard noting the number of people killed in the U.S. war in Iraq. In 2011, Jim Dupre, a veteran, was cited with a sign code violation and ordered to remove the political sign or face enforcement actions that can include a significant fine.

The ACLU of Oregon agreed to represent the Eugene veteran because we believe the Eugene sign ordinance has several constitutional flaws, including:

- A violation of the free speech clause of the Oregon Constitution and First Amendment because it creates a “content-based” restriction on speech. The sign ordinance allows certain kinds of signs while prohibiting others without a permit, based solely on the content of the sign. For example, the city ordinance allows contractor and real estate signs, as well as holiday decorations and official flags and banners. But our client’s sign expressing political speech is not allowed.
- The ordinance includes a permit requirement with a fee and lengthy application form and waiting period for processing the permit application. We believe this permit process is an unconstitutional prior restraint on speech.
- We believe the ordinance simply imposes too great a burden on protected political speech. The U.S. Supreme Court has noted: “Residential signs are an unusually cheap and convenient form of communication. Especially for persons of modest means or limited mobility, a yard or window sign

may have no practical substitute...

“A special respect for individual liberty in the home has long been part of our culture and our law; that principle has special resonance when the government seeks to constrain a person’s ability to speak there.” *City of Ladue v. Gilleo*.

- Finally, the city’s selective enforcement of the ordinance is a problem. Because enforcement of the ordinance is entirely complaint-based, and the city has refused to release any information about those complaining, the ordinance is likely to be enforced primarily against signs that express an unpopular or controversial viewpoint.

We’re hopeful the city of Eugene will be willing to amend its ordinance so that free speech rights are respected. Cooperating attorney Justin Thorp of Portland is handling this case for the ACLU of Oregon.



Jim Dupre's sign

A Freedom Lost for One... Is a Freedom Lost for All



That is why the ACLU is in all 50 states, where we are the first line of defense against America’s most serious civil liberties challenges.

By planning a bequest or other planned gift, you become a partner in our strategic efforts at the federal, state and local levels around the country.

To learn more about making a gift through a beneficiary designation, will or trust, please visit www.aclu.org/legacy or contact the Office of Gift Planning, toll free, at 877-867-1025 or by email at legacy@aclu.org.

hood” amendment and (at this writing) is awaiting a final ballot title.

The ACLU of Oregon and our pro-choice coalition partners, NARAL Pro-Choice Oregon and Planned Parenthood of Southwestern Oregon and Planned Parenthood of the Columbia-Willamette, have coordinated our legal efforts to challenge the ballot titles of each proposal. Due to our efforts on the ballot titles, we believe voters will have greater understanding of the true impact either amendment would have if enacted.

The “personhood amendment,” which would ban not only abortion but also emergency contraception, many forms of birth control and would restrict other health care decisions, is similar to at least four other proposals filed in the past 10 years in Oregon. In each instance, the ACLU of Oregon filed pre-election legal challenges against the proposals and the chief petitioners were unable to collect enough signatures to qualify for the ballot.

Oregon is one of six states where “personhood” proposals may reach the ballot this year. In 2011, voters in Mississippi and Nevada considered and rejected such proposals thanks, in part, to the efforts of the National ACLU Reproductive Freedom Project and ACLU affiliates.

Of even greater concern for us is the proposal to ban the “use” of “public funds” for any “abortion” (IP #25). Because none of the terms in this measure are defined, it is also a terribly broad constitutional amendment with the potential for many harmful effects. For example, IP #25 could restrict access to contraceptives that could possibly prevent a fertilized egg from implantation in the uterus. (Anti-choice activists refer to such contraceptives as “abortifacients.”)

Of course, it would also prohibit access to abortion services and coverage in health insurance plans that receive any public funds. Among those affected would be women on the Oregon Health Plan, those covered by public employee health insurance plans, services provided by publicly owned or subsidized hospitals and clinics, and even the new health insurance exchanges being created under the federal health care reform law.

That is why the ACLU of Oregon and our Pro-Choice Coalition of Oregon partners are already at work marshaling resources and planning how we will defeat these proposals should they qualify for the ballot.

Attacks on reproductive rights are always troubling, but this current effort to deny women insurance coverage for abortion care and contraceptives, as well, is alarming. Several states already prevent insurance companies from offering abortion coverage. And for years, laws have severely curtailed coverage for people insured through state or federal programs,

including low-income women, public employees, military families, Peace Corps volunteers and Native Americans.

Sometimes it is hard to believe how far some politicians and anti-choice activists are willing to go to stop women from being able to make personal, private medical decisions. From denying women comprehensive health care coverage that includes contraceptives and cancer screening, to forcing a woman to listen to scripted speeches intended to shame her out of her decision to terminate a pregnancy, too many state legislatures saw it all last year. There were so many threats we cannot list them all here, but you can see an interactive map for yourself at: <http://www.aclu.org/maps/2011-abortion-access-under-attack-state-legislatures>.

We know that a large majority of Americans agree that women’s lives matter. Decisions about women’s health care and reproductive freedom should be made by the women involved, not by politicians or by activists who want to impose their religious and political views on everyone else.

We don’t know yet if the sponsors of Oregon’s “personhood” amendment and the public funding ban will succeed in qualifying their measures for our ballot in November. What we do know is that we cannot wait until the signature deadline in July if we want to defeat these measures. Our work has already begun in Oregon and in many other states.

The ACLU and our other Pro-Choice Coalition partners have never lost a ballot measure campaign that sought to undermine reproductive freedom – and we don’t plan for 2012 to be the first time we do.

We’ll need you to join us in standing up to say “enough is enough.” If you want to help us in this effort, please go to our website (www.aclu-or.org) and sign up for our email action list so we can keep you posted on our efforts to protect the fundamental rights of women to make their own health care decisions.

After considering our concerns about IP #25, the Oregon Attorney General certified the following ballot title:

Constitutional Amendment: Bans “use” (undefined) of “public funds” (undefined) for “abortion” (undefined) coverage, services, certain exceptions.

Become an e-activist. Go to www.aclu-or.org.

KNOW YOUR RIGHTS CAMPAIGN ROLLS OUT

Are you confident in asserting your rights when dealing with police? Do you know when an officer has the right to search you? Are you prepared to respond to an officer's questions with a respectful "I choose to remain silent"?

Many of us do not have the knowledge and confidence to stand up for our basic rights during an encounter with law enforcement. As a free people, knowing these rights and how to assert them should be a part of our basic education but, sadly, it is not. So the ACLU of Oregon has launched a campaign to train people on their basic rights when dealing with law enforcement.

Our goal is to educate and empower Oregonians to stand up for their rights by arming them with the knowledge and training to do so effectively and respectfully. This campaign addresses one piece of ACLU of Oregon's strategic goal to reduce the use of force and curtail racial profiling by police.

The ACLU of Oregon *Know Your Rights when Encountering Law Enforcement* workshops will provide basic knowledge about street-level police interactions including when you have the right to refuse to speak with police, how to refuse a search, and how to respond if you feel your rights have been violated.

These workshops will not only empower those who attend but will also help law enforcement officers do their jobs better. While we would hope that officers always act within

constitutional guidelines, the fact is some officers will take advantage of those who are ignorant of their rights, often through subtle, not overt, means. For example, rather than asking explicitly "Do I have permission to search your bag?" an officer might say "Let me look in your bag" while reaching for a young man's backpack. In this scenario, having the confidence to say "I do not consent to a search, Officer" puts the officer on notice that this person understands their rights and will often result in the officer changing their entire approach to the person during the encounter.

Our campaign starts with training teams of volunteers to give the workshop in Portland and Eugene. We plan to train workshop leaders in Southern Oregon and Salem as well. While our efforts will be small compared with the great need, we are excited by this opportunity. Our initial education efforts will target those communities most affected by police use of force and racial profiling. As we build our volunteer capacity we will seek out opportunities to present the workshop to high school and college students, community groups, social service agency clients and other audiences. In addition, we plan to eventually expand our offering of workshops to include immigrant rights and other topics.

Keep an eye on our website for information about how you can request a Know Your Rights workshop for your classroom, community group or other venue.

GASQUE CASE UPDATE: CIVIL ACTION FILED

Asserting your rights does not guarantee that police will respect your rights. Jose Gasque found this out in downtown Portland during a late-night encounter with Portland police officers in November 2009.

When Gasque and a friend stepped outside for a smoke, they walked onto the driveway of the abandoned Burger King at West Burnside and Northwest Broadway. They soon were surrounded by police who told them that they were trespassing and that they needed to show identification, and asked if they would consent to a search.

Gasque and his friend provided identification. Gasque also pulled out his ACLU Know Your Rights wallet card. He politely declined to be searched, said he and his friend did not know they were trespassing and asked if they could go. Police said they could not leave and continued to ask for permission to search. Gasque politely refused and was arrested for Criminal Trespass II, booked at the jail, then released several hours later.

The ACLU Foundation of Oregon, through cooperating attorney Tiffany Harris of Pacific Northwest Law, LLP, successfully represented him in getting the criminal charge dismissed. Now the ACLU of Oregon is representing Gasque in a civil action against the city and police officers for wrongful arrest. Bronson James of JDL Attorneys, LLP, is the cooperating attorney representing Gasque in the civil case.

Eugene Celebration



Executive Director David Fidanque along with members Bruce Carlson and Glenn Gordon prepare to "raise the roof" at the Eugene Celebration Parade.

2012 SLATE OF NOMINEES FOR THE ACLU OF OREGON BOARD OF DIRECTORS

HERE ARE STATEMENTS FROM THE PEOPLE NOMINATED FOR THREE-YEAR TERMS:

Jim Curtis (Portland)



Currently, I am an ACLU intake volunteer, utility consultant and member of the OSB Criminal Law section. My former activities include: Financial and business services manager; Chair of the OSB Quality of Life Committee; board member for Better People – an organization seeking to place former offenders in living-wage jobs; board

member and volunteer for the Western Prison Project and the Partnership for Safety and Justice – an advocacy group for victims, offenders and the families of both. *Current board member nominated for re-election.*

Alec Esquivel (Portland)



I was born and raised in the Midwest, and received a B.A. from the University of Nebraska-Lincoln. The Nebraska ACLU fought for my right to complete a second-parent adoption of my son, up to the Nebraska Supreme Court. (*In re Adoption of Luke. B.P. and A.E. v.*

State of Nebraska 263 Neb. 365 (2002)(adoption denied)). I relocated to Portland to complete my son's adoption. In 2009, I received a J.D. from Willamette College of Law and served as Judicial Law Clerk for the Oregon Court of Appeals for the Honorable Darleen Ortega and Lynn Nakamoto. I currently practice family law in Portland.

Cate Hartzell (Ashland)



My professional work focuses on poverty: I've worked for Oregon DHS for seven years and spent the previous 11 years in rural economic re-development. My community activism started in 1977 in Portland with nuclear power issues and centers on social and economic

equity and environmental stewardship. I'm the chair of Civil Liberties Defense Center's Rogue Valley chapter and was appointed to the Board of the Housing Authority of Jackson County in 2008. I served as an Ashland City Councilor from 2000-2008, prioritizing civil liberties and the needs of low income, mentally ill, and homeless people, including housing and police practices. *Current board member nominated for reelection.*

We would like to introduce you to the nominees for the ACLU of Oregon Board of Directors.

There are eight at-large positions to be filled in 2012. Four of the nominees are incumbents nominated to run for another three-year term. The others are new nominees for the board.

In a separate process, our two chapters – the Benton-Linn and the Lane County chapters -- each elect two voting representatives to serve on the statewide board, as well.

Our commitment to increasing the diversity of the board is an important reason why the Nominating Committee has proposed an uncontested slate, only nominating the number of candidates as there are vacancies.

The Nominating Committee has several criteria to balance as it seeks candidates to run for election to the board. For example, ACLU policy requires that we set out affirmative action goals. In Oregon, our affirmative action plan requires that we strive for gender and racial/ethnic representation on the board in proportion to Oregon's population. Additionally, we strive for 10 percent of the board to be people who self-identify as people with disabilities and 10 percent who self-identify as lesbian, gay, bisexual or transgender.

In addition to the affirmative action goals, the Nominating Committee also seeks candidates who will provide geographic, age and experience diversity. As we seek individuals who meet these criteria, we also ask each candidate to meet

Cary Jackson (Portland)



Retired Business and Real Estate investor and current ACLU Board member and Treasurer. He volunteers as a mentor and board member for the Rosemary Anderson High School/Portland Opportunities Industrialization Center, which provides alternative school services to students not succeeding in Portland

Public Schools. *Current board member nominated re-election.*

William Patton (Portland)



I am a partner at Lane Powell PC where I practice employee benefits (ERISA) litigation and general employment law. I grew up in Salem, went to college at Occidental College in Los Angeles, and earned my JD from the George Washington University in 1997. I have been a volunteer attorney for the ACLU, having

successfully represented high school students in Pendleton and Forest Grove whose efforts to form gay-straight alliance

ACLU OF OREGON BOARD OF DIRECTORS

several expectations, such as attendance at the six bimonthly meetings of the board and to actively participate in the financial stewardship of the organization, particularly fundraising duties.

The ACLU of Oregon Board of Directors is comprised of 24 at-large members elected by the entire membership. These positions are divided into three classes with staggered terms so that eight positions are up for election each year.

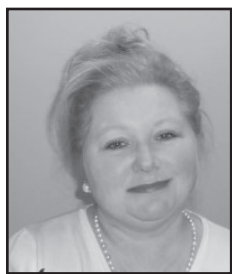
This year, members will vote for eight full, three-year terms positions. Ballots will be mailed to all current statewide members in early April and are due in the Portland office no later than 5 p.m. May 7.

Additional nominees may be made by petition of 50 members of the ACLU of Oregon. A petition shall state the term for which a candidate is nominated; it shall also include the candidate's background and qualifications and a signed statement expressing the nominee's willingness to serve if elected. Such a petition must be received in the Portland office no later than 5 p.m. March 26.

We would like to thank outgoing board members **Val Aitchison** (Portland), **Merry Demarest** (Corvallis) and **Cathy Travis** (Portland) for their service and dedication to the ACLU of Oregon. Each has completed two three-years terms on the board and, due to term limits for ACLU of Oregon board members, are not permitted to run for a third consecutive term.

clubs at their schools were being thwarted by administrators. My other volunteer/pro bono work includes: Board Member, Equity Foundation (Board Chair, 2011); Member, Basic Rights Oregon legal advisory group; Board Member, Listen to Kids; Presenter, Oregon State Bar Convocation on Equality (2011); and Member, Lane Powell Diversity Committee. *Appointed board member nominated for election.*

Nancy Ross (Astoria)



An Oregon native, residing in Astoria, I have been the director of a Portland nonprofit organization, fundraising chair for three 501(c)(3)s, editor of a not-for-profit newspaper and charity event planner. A dedicated civil libertarian and, proudly, a member of the DeSilver Society, I am fortunate to have been invited to speak publicly

throughout America and many times on the subject of liberties, including the White House, where I addressed the civil rights of public school children. Deeply honored, I was the first recipient of the ACLU of Oregon's Stevie Remington award. I currently sit on the awards committee.

Erin J. Snyder (Portland)



I am an Oregon native and an alumnus of Oregon City High School, Reed College, and Lewis and Clark's evening law school program. I volunteered and, later, worked for the ACLU of Oregon, assisting with the Litigation Program and volunteer coordination between 2002 and 2007. I am now an appellate criminal defense attorney at the Office of Public Defense Services in Salem.

Steven Wilker (Portland)



Steven is an attorney at Tonkon Torp LLP in Portland. He focuses on complex commercial litigation and advising clients on issues involving intellectual property, media, energy, finance, securities, corporate governance, and real estate. Steven graduated from UCLA School of Law in 1990. Having served as a member of the ACLU of Oregon Lawyers Committee and an ACLU co-operating attorney for several years, Steven was elected to the Board of the ACLU of Oregon in 2009. He was appointed Vice President for Litigation in 2010 and 2011 and is now Chair of the Lawyers Committee. *Current board member nominated for re-election.*

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GOV. KITZHABER STOPS EXECUTIONS IN OREGON – FOR NOW

Last year Oregon was scheduled to conduct its first execution in 14 years. Death row inmate Gary Haugen had waived his rights to further appeals of his death sentence and said he preferred to die. His execution was scheduled for Dec. 6, 2011.

In early November, the ACLU of Oregon joined with other anti-death penalty allies to urge Gov. Kitzhaber to grant a reprieve of Haugen's death sentence, a power granted to the governor by the state constitution. The petition, signed by the ACLU of Oregon, Oregonians for Alternatives to the Death Penalty, Amnesty International and Oregon Capital Resources Center stated, in part:

"For nearly 30 years we have been funding a death penalty that has not resulted in a single execution after full appellate court review. Put another way, Oregonians have been spending millions of dollars every year for three decades on a system that has never worked, except that it sometimes forces inmates to forfeit protections designed to ensure the system is working properly. No other government program or system still in existence has anything approaching this type of complete failure rate. It's not about to begin working either."

On Nov. 22, Gov. Kitzhaber announced his decision to grant a temporary reprieve of Haugen's death sentence. Kitzhaber had been governor in 1996 and 1997 when the last two executions were carried out on other inmates who had given up their appeals. In his statement, the governor said, "The death penalty as practiced in Oregon is neither fair nor just; and it is not swift or certain. It is not applied

equally to all. It is a perversion of justice that is the single best indicator of who will and will not be executed has nothing to do with the circumstances of a crime or findings of a jury. The only factor that determines whether someone sentenced to death in Oregon is actually executed is that they volunteer."

Kitzhaber was very clear that he would not allow any executions to happen under his watch as governor. But he also made clear that he had chosen not to commute Gary Haugen's sentence – or all of death row sentences in Oregon – even though he has the constitutional power to do so. Since the people of Oregon voted in 1984 to reinstate the death penalty in our state Constitution, the governor believes Oregonians should reevaluate and reconsider our current system of capital punishment. Kitzhaber noted that he favors replacing the death penalty with a sentence of life without the possibility of parole.

The ACLU of Oregon has long opposed the death penalty in our state. We worked in the 1960s to successfully repeal the death penalty but lost in 1984 when voters reinstated it. The ACLU is joining with other anti-death penalty advocates to start the conversation on abolition of the death penalty in Oregon. We believe as Oregonians learn more details of how the death penalty is used in our state, they will become supportive of replacing this expensive, broken and unjust system with a true life in prison without the possibility of parole sentence. You can receive updates on our progress by signing up for our action alerts at www.aclu-or.org/action.

NO FLY UPDATE: SECRET FEDERAL LIST HAS GROWN

The federal government's secret No Fly list made the news again in February.

On Feb. 2, the Associated Press announced that the No Fly list had doubled in size over the past year, from approximately 10,000 names in 2010 to more than 21,000 names currently.

The secret list is composed of people who are banned from flying to or within the United States. The AP reported that the list grew so dramatically in size because the government "lowered the bar" on criteria for people to be added to the list.

The ACLU and the ACLU Foundation of Oregon have challenged the federal government's handling of this list precisely because it is secret and there is no adequate process for individuals to be notified they are on the list or to challenge or appeal that designation once they discover they are on the list.

The ACLU's lawsuit was filed in June 2010 in U.S. District Court in Oregon on behalf of several plaintiffs who are U.S. citizens or legal permanent residents, many of whom have been effectively banished from the United States as

a result of their inclusion on the list. The plaintiffs include Portland Imam Kariye, who has not been allowed to travel to Dubai to visit his daughter.

In May 2011, Judge Anna Brown dismissed our case, stating she did not have jurisdiction to hear our claims. We have appealed her decision to the Ninth Circuit Court of Appeals and expect to have oral arguments sometime this year. In the course of investigating the No Fly program, ACLU has been troubled by numerous stories from individuals who have been banned from flying and the pressure they have received to become informants for the U.S. government.

Meanwhile, on Feb. 4, *The Oregonian* newspaper reported that a Tigard businessman, who had traveled to his native Libya to distribute medicine and supplies, was temporarily banned from returning to the United States, along with two other men from Portland. Jamal Tarhini, a naturalized U.S. citizen who fled the Gadhafi regime, is Muslim and has lived in Oregon for more than 30 years. He traveled to Libya last fall as a volunteer with Medical Teams International.

PORTLAND JTTF UPDATE: DRAFT REPORT FALLS FAR SHORT OF TRANSPARENCY

In April 2011, the Portland City Council adopted a resolution outlining how and when the Portland Police Bureau (PPB) would work on any FBI Joint Terrorism Task Force (JTTF) investigation. In 2005, the city had pulled out of the JTTF after the ACLU of Oregon and others repeatedly pointed to restrictions in Oregon law on police surveillance, the questionable tactics of the FBI and the lack of oversight of Portland Police officers assigned to work with the JTTF.

In its resolution, the city better defined how it would cooperate with the FBI and, at the ACLU of Oregon's insistence, agreed to publish an annual report of Portland Police activities related to the JTTF so that the Council and the public would have a clearer idea of how the Portland Police personnel and resources are being used.

Last Spring, the ACLU of Oregon asked the Council to keep the public informed on the following points:

- An update on the security clearance status of the mayor, police chief and any PPB officers or supervisors working with the JTTF.
- Non-confidential details regarding the steps taken to ensure PPB personnel comply with Oregon laws, and any requests PPB personnel made to the city attorney, including the number of consultations.
- The types of issues raised, and actions taken as a result of such consultations.

- The number of investigations, types of investigations and at what stage PPB officers were asked to work with the FBI JTTF.
- The annual number of hours and officers participating.
- The number of briefings made by the FBI to the chief of police and the commissioner-in-charge.
- How often terror alert information was shared with city officials.
- Additionally, we requested the city interview all PPB personnel working with the FBI JTTF to better understand any issues or problems that arose, especially around compliance with Oregon laws.

Unfortunately, the City's draft report includes only vague generalities and assurances that the cooperation between the Police Bureau and the FBI is not resulting in any violations of Oregon law or city policies. The underlying assumption behind the Council's resolution in April 2011 was to permit cooperation with the FBI, but require greater oversight and safeguards to ensure that Portland police wouldn't get caught up in the FBI's current and future abuses of constitutionally protected activities. The draft reports from the Mayor and Chief Mike Reese essentially say: "Trust us; we're not doing anything wrong." Trust is fine, but we want to be able to verify that the trust is warranted. The Portland City Council will hold a public hearing on the reports on February 29.

ACLU CELEBRATES REOPENING OF SCHRUNK PLAZA AND BILL OF RIGHTS DAY

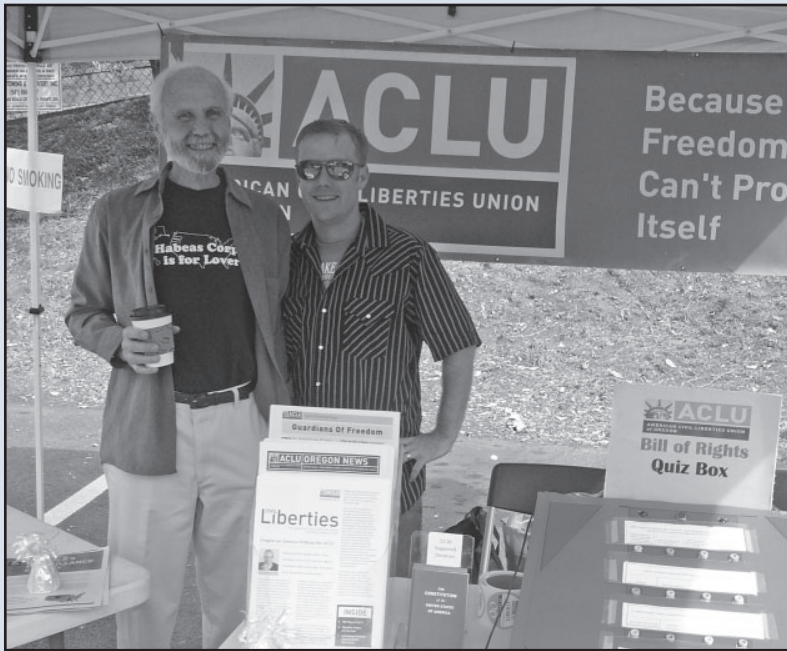
The ACLU of Oregon celebrated the reopening of Terry Schrunk Plaza and Bill of Rights Day on Dec. 15 with readings of the Bill of Rights in the amphitheater at Shrunk Plaza.

Federally owned Terry Schrunk Plaza had been closed since Nov. 13, when Portland police evicted Occupy Portland demonstrators from nearby Chapman and Lownsdale parks. The city had stated that Chapman and Lownsdale parks needed to remain closed to allow time for repairs; but Terry Schrunk Plaza had not been damaged, yet it also remained closed.

The plaza's amphitheater, which was designed to accommodate public gatherings and foster public discourse, had been the site of the General Assembly meetings for Occupy Portland. On Dec. 5, the ACLU of Oregon filed for a permit to hold a reading of the Bill of Rights at the plaza, in part to encourage the federal General Services Administration to remove the fences and reopen what has been a traditional public forum. The ACLU's permit was granted on Dec. 12, and the fences came down the same day.

The sidewalk thoroughfares of Chapman and Lownsdale parks were reopened in February, but the grassy areas remain cordoned off to allow vegetation to grow again.





Southern Oregon members David Berger and Justin Rosas enjoyed helping out at the ACLU booth during Southern Oregon Pride in Ashland this past October.



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FIRST ANNUAL LEGISLATIVE SESSION BEGINS

February 1 marked the opening of the 2012 Legislative Session. Oregon voters approved a ballot measure in 2010 to send their legislators to Salem annually, rather than every other year, and in this even-numbered year they have just 35 days to complete their work. The legislature must adjourn by March 6, but we expect that they'll do so sooner.

In contrast to a regular long session when we see thousands of bills, only about 300 bills have been introduced this time around. This limited scope and duration of session means that timelines are very short to achieve big goals such as balancing the budget and transforming health care delivery. There is little bandwidth for other substantive work, but just enough to push through some bills in an election year that would undermine civil liberties.

While the ACLU does not typically focus on budget issues in Salem, during this economic downturn there is an opportunity for the state to save taxpayer dollars in the short and long term through sentencing reform and a hard look at overincarceration of low-level offenders.

We are closely following the work of the Commission on Public Safety, which was appointed by Governor Kitzhaber last summer to examine these issues. The Commission, led by Oregon Supreme Court Chief Justice Paul DeMuniz, issued its first report in December and has asked the Governor to extend its timeline so it can make substantive policy recommendations for the 2013 legislative session.

The Commission's December report found: 1) The rate of violent crimes and property crimes are both at their lowest level since the 1960s; 2) Ninety percent of Oregonians were unaware that the crime rate is down; 3) Unlike Oregon, which has doubled its prison capacity in the past 20 years and tripled its cost, other states have successfully reduced crime and their incarceration rates; and 4) Oregon needs to implement sentencing reform and use the savings to invest in proven, more cost effective programs to reduce crime.

The current legislative session is an opportunity to con-

tinue the discussion of public safety reform around the Capitol and build momentum for meaningful reforms next year.

The remainder of our work in this short session is directed at stopping any bills that are harmful to civil liberties from moving through. We are especially concerned about a proposal that threatens the privacy of medical and financial records of anyone 65 or older. HB 4084 was introduced by an interim legislative task force on elder abuse. Of course, we are not opposed to improving protections from abuse for vulnerable seniors. The current version of the bill, however, would permit any police officer to obtain access to protected health information and private financial records of a person over the age of 65 without the consent of the person and without any prior judicial review. This type of access is unprecedented in Oregon law and raises significant concern for the privacy rights of our aging population. As of this writing, HB 4084 is headed to the budget-writing Joint Ways and Means Committee and we are urging all legislators to oppose the bill unless adequate privacy safeguards are added.

We have been tracking other bills that negatively impact civil liberties, but most appear unlikely to move out of committee. Nevertheless, until legislators go home, nothing is truly off the table and the speed and unpredictability of the session will increase as adjournment nears.

We look forward to providing a substantive report on our website when the session is over detailing what passed and what failed.

Becky Straus is the ACLU of Oregon's new Legislative Director, joining the staff in October 2011. She is an attorney with previous experience as a policy advocate for the Oregon Law Center, a civil legal services organization representing low-income Oregonians. In her few months with the ACLU, she has quickly immersed herself in a broad range of civil liberties issues and is already the face of the ACLU in the State Capitol, Portland City Hall, and with numerous ACLU allies and coalition partners.

Are you an ACLU e-activist, yet?

Get updates on the Fight for Freedom. An informed membership is freedom's best defense.

Our action alerts bring about results:

Death Penalty Action, November 2011 - In a five-day period, ACLU of Oregon e-activists generated nearly 1,000 emails to Gov. John Kitzhaber, urging him to stop executions in Oregon. The next week, he did just that.

Safe and Free Action, February 2011 - ACLU of Oregon e-activists sent hundreds of emails to Portland City Council members urging the council to not rejoin the Joint Terrorism Task Force (JTTF).

The city has a cooperation agreement with the FBI but did not re-join the JTTF.

In 2012, we'll be fighting to protect **women's reproductive freedoms** and other important civil liberties issues. We'll need your help.

Sign up for ACLU emails to keep informed and know when to act.

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UNTANGLING THE RELATIONSHIP BETWEEN ICE AND LOCAL LAW ENFORCEMENT

The enforcement of civil immigration law is the responsibility of the federal government, not of local law enforcement, and yet in recent years the federal Immigration and Customs Enforcement (ICE) has implemented programs that effectively shift the burden onto local police and sheriffs – exhausting scarce resources and sacrificing civil liberties in the process.

The Secure Communities program, a policy directive from the Department of Homeland Security, mandates that in addition to running a person's fingerprints through the FBI database upon booking for a criminal offense, local law enforcement also run the person's prints through the ICE's IDENT database, checking for immigration status. In the majority of cases, fingerprints are run against the ICE database when the person is still in pre-trial custody. This policy is an unprecedented entanglement between criminal and civil process and carries serious consequences for our communities statewide.

After running the prints and if IDENT shows a match, ICE then issues what is called an I-247 or an "ICE hold" requesting that the local jail hold the person until an ICE agent can come to pick them up. Invariably, their next stop is the Tacoma immigration detention facility and deportation proceedings.

Since its inception in 2008, the Bush and Obama administrations alike have touted Secure Communities as a groundbreaking public safety program, meant to find and deport the most dangerous "criminal aliens."

What we are seeing, instead, is that this data-sharing program has resulted in approximately 3,600 U.S. citizens being arrested by ICE. Additionally, there has been a mass deportation of low-level offenders, many initially stopped for minor traffic violations, or people without criminal histories at all. Recent reports indicated that 26% of individuals deported through Secure Communities had civil immigration violations but no criminal convictions at all. Another 29% of deportations were individuals with low-level misdemeanors or traffic violations.

ACLU is concerned about these numbers, not just because the Secure Communities program is not prioritizing violent criminal offenders. This program also is overburdening local law enforcement with activities that are ICE's responsibility and is ensnaring U.S. citizens.

A 2011 report by the Warren Institute on Law and Social Policy at Berkeley warns that, because of this program, many communities perceive local police as taking on the role of ICE agents in the streets, relying on racial profiling and pretextual arrests to target persons who they think are without proper immigration papers. The impact on community trust of local law enforcement, especially by witnesses and victims of crime, is devastating and is making our communities less safe.

Domestic violence reporting is a prime example of an issue that requires victims to trust local law enforcement. The sister branch to ICE, the U.S. Citizenship and Immigration Services department acknowledges that "some immigrants

may be afraid to report acts of domestic violence to the police...Such fear causes many immigrants to remain in abusive relationships." Unfortunately, the Secure Communities program has done much to exacerbate the fear of local law enforcement among immigrant communities.

In addition to this fingerprint data-sharing program, the issuance of I-247 detainers is equally destructive to Oregon's communities. Used as another tool to link local policing to federal immigration enforcement, the detainer issued by ICE to the jail where a detainee is being held generally requests that the person be held for a period not to exceed 48 hours. No warrant is issued; no probable cause is shown; no opportunity is provided to challenge the detainer. In fact, what we see in some instances is that the person is held without even knowing that a detainer has been issued – in some cases for longer than the 48-hour limit.

The ACLU of Oregon believes that these programs and practices are damaging to Oregon's communities and pose a serious threat to the due process and equal protection rights of us all. We are working closely with groups like Jobs with Justice, Causa, VOZ, Oregon New Sanctuary Movement, the Portland National Lawyers Guild, and others, which together compose a network of advocates all working to shed light on the Latino and immigrant experience in Oregon and put a stop to these practices. We are pushing a two-pronged strategy, exploring both legal and policy options to release ICE's hold on local jails.

We do this work because all persons, regardless of citizenship status, are entitled to the protection of local police and to be free from discrimination and government abuse. These are principles that are fundamental to the work of the ACLU, and we are proud to collaborate with our coalition partners to fight to protect them.

Here are more Secure Communities findings from the October 2011 study by the Warren Institute:

- More than one-third (39%) of individuals arrested through Secure Communities report that they have a U.S. citizen spouse or child, meaning that approximately 88,000 families with U.S. citizen members have been impacted by Secure Communities;
- Latinos comprise 93% of individuals arrested through Secure Communities though they only comprise 77% of the undocumented population in the United States;
- Only 52% of individuals arrested through Secure Communities are slated to have a hearing before an immigration judge; and
- Only 24% of individuals arrested through Secure Communities and who had immigration hearings had an attorney compared to 41% of all immigration court respondents who have counsel.

SAVE THE DATES

**ACLU of Oregon
Annual Membership Meeting**

will join the

**ACLU NW CIVIL LIBERTIES
CONFERENCE**

September 14 & 15, 2012

More information to follow.



2011 ACLU Northwest Civil Liberties Conference at
Lewis & Clark Law School – Conference Coordinator
Nolan Shutler with Keynote Speaker ACLU
Legal Director Steve Shapiro.



Andi Zeisler (co-founder of *Bitch* magazine) hosted
our Banned Books Reading at Powell's City of
Books in September.

NEW DEVELOPMENT DIRECTOR ON BOARD


Last November, we welcomed Gail Anderson, CFRE, to the ACLU of Oregon staff as our new Development Director. Gail brings years of experience as a Senior Development Officer with the Loaves and Fishes Centers.

Some of her earlier experiences include time as the Development Director with the Northwest Earth Institute and a manager in the U.S. Bancorp Legal Department. She is a Portland native with degrees from Portland State University and the Northwest School of Law at Lewis and Clark College.

Gail replaces James K. Phelps, ACFRE, who was our Development Director for more than 6 years. We wish James much success with the new development consulting business he has created and we thank him for his efforts to grow the ACLU Foundation of Oregon's development program.

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