Oregon has the Freedom to Marry
A Summer of Racial Tension and a Spotlight on Police Use of Force

The death of Michael Brown followed by weeks of demonstrations in Ferguson, Missouri, has highlighted that race still divides us as a nation – especially in the way our criminal laws are enforced.

For most white Americans, sitting safely in their homes watching the events in Ferguson unfold like a reality TV show, the drama was a stark reminder that each of our communities could be just one incident away from lighting a powder keg of racial tension and fear that is just under the surface.

For people of color, many of whom experience every day the disparate impact of the way that police officers are deployed and do their jobs, the death of yet another unarmed African American young man has intensified the resolve to eliminate racial profiling and other discriminatory practices in the criminal justice system.

Ferguson has also highlighted the increasing militarization of local police – especially in their response to public demonstrations critical of their actions.

This renewed national conversation about police practices is timely because all of these issues are present in here in Oregon.

In 2012, when the U.S. Department of Justice released the findings of its investigation of the Portland Police Bureau for civil rights violations and use of excessive force on persons with real or perceived mental illness, they noted that many in communities of color here believe the Bureau engages in bias-based policing. The Bureau’s own data on traffic stops shows that African Americans and Latinos are stopped and searched at a significantly higher rate than whites.

Also, like the situation with Michael Brown, the DOJ investigation noted “there is a deep-seated concern” among minority communities that “PPB does not provide timely access to medical care following the use of deadly force.”

Changing this dynamic is challenging but important work that this ACLU affiliate has been engaged in for more than two decades.

We have been in the forefront of efforts to push state and local law enforcement to routinely collect data on their interactions with people stopped by police officers, including information on race and ethnicity of the individuals stopped, the reason for the stop, whether there was a search, whether something was found and the ultimate enforcement action taken by the officer (if any).

Some of the largest law enforcement agencies in the state are collecting this data but much more is needed, including increased and reliable state funding for independent analysis of the data. For too long, Oregon law enforcement officials have strongly opposed collecting stop and search data unless it is voluntary, but pressure is mounting for state legislation that would impose this requirement.

We have also worked to reform police use of force policies to put greater emphasis on defusing police encounters rather than escalating them. We have pushed for more restrictions on the use of Tasers, while supporting their use as an alternative to deadly force. We helped get Oregon law changed to allow for dashcams in police cars. And, we are working to change the law again to allow for body-cams – as long as there are policies to protect privacy rights and to prevent them from becoming yet another surveillance tool. This technology has the potential to increase police accountability and decrease incidents of police misconduct, including excessive use of force.

With your support, we will continue all of this important work in Oregon - and nationwide – until we truly achieve the promise of equal justice for all.

Stay informed about civil liberties in Oregon at www.aclu-or.org
Rick Steves is touring Oregon in support of Vote Yes on 91, the ballot measure to legalize, regulate and tax marijuana. You probably know him best from his radio and television shows on OPB. He also produces a syndicated column and revises more than 50 guidebooks a year from his hometown of Edmonds, WA.

So how did Rick Steves become one of the most visible advocates for reform of marijuana laws? Having traveled extensively through Europe, Rick gained an appreciation for the pragmatic drug policies there, which are measured by harm reduction rather than incarceration. In the United States we arrested 8 million marijuana users between 2001 and 2010, yet Dutch possession arrests have been virtually eliminated. Rick also is motivated by interest for the civil liberties of responsible adult users.

The ACLU of Oregon is an early endorser of YES on 91 and is cohosting the Rick Steves tour. See the back cover for a list of dates and locations, or visit aclu-or.org/ricksteves.

ACLU of Oregon
2014 ANNUAL MEMBERSHIP MEETING
Thursday, October 9, 7:00-8:45 p.m.
McDonald Theater – 1010 Willamette St., Eugene
Featuring
RICK STEVES
European travel expert and marijuana policy reform advocate
This event is free and open to the public, but pre-registration is required.
Find out more at aclu-or.org/ricksteves
Measure 91
Marijuana – YES

Law enforcement’s war on marijuana is a failure and has needlessly ensnared hundreds of thousands of people in the criminal justice system at a tremendous human and fiscal cost. Shifting Oregon away from the unsuccessful prohibition model towards a more effective harm reduction model long has been a high priority for the ACLU and our staff helped draft Ballot Measure 91.

Legalizing, regulating and taxing the recreational use of marijuana by adults 21 and older will bring a new approach to our drug laws, making them more fair, more compassionate, and smarter at reducing drug dependency and improving public health and safety. We urge a YES vote.

Between 2002 and 2012, Oregon law enforcement agencies arrested or cited more than 110,000 people for marijuana offenses, according to annual reports issued by the Oregon State Police. That’s like arresting or citing every single person who lives in Hillsboro.

What’s more, the war on marijuana is enforced along color lines. Blacks and whites use marijuana at roughly equal rates, but blacks are more likely – in Oregon, roughly two times as likely – to be cited or arrested for marijuana than are whites.

Money and valuable police time could better be spent on measures that keep communities safe, investigating serious and often unsolved crimes, and reinvesting in public health programs, including drug treatment. Rather than wasting time and money by clogging our courts and jails with marijuana users and producers, we should be licensing and strictly regulating marijuana production and sales.

The personal cost to those arrested is often significant and can linger for years. When people are arrested for possessing even small amounts of marijuana, it can affect their public housing and student financial aid eligibility, employment opportunities, child custody determinations, and immigration status.

Measure 91 would make marijuana legal for adults, take marijuana out of the black market, and establish a system in which it is regulated and taxed similar to alcohol. Marijuana laws applying to minors under 21 would remain the same.

Measure 88
Driver Card – YES

The ACLU of Oregon’s work is rooted in the notion that all persons in Oregon deserve protection under the law and the right to be free from discrimination. We also ascribe to the view that the purpose of requiring that every driver be licensed should be to ensure that drivers know the rules of the road, have liability insurance and have the skills to drive safely – not to act as a proxy for enforcement of federal immigration law.

We strongly opposed the changes to Oregon law in 2007 that added the requirement for all Oregon driver license applicants and renewals to provide proof of lawful presence in the U.S. Measure 88 is a common sense measure designed to make our roads and communities more safe by creating a limited purpose and limited duration driver “card” that would be available to those that would otherwise qualify for a license but, for whatever reason, cannot “prove” their lawful presence in the U.S. The driver card would only be issued to Oregon residents who meet the following requirements:

- Pass the State’s written driver knowledge test;
- Pass the State’s behind-the-wheel driver test;
- Provide proof of residence in Oregon for more than one year; and
- Provide proof of identity and date of birth.

Thousands of Oregonians who got drivers licenses before the 2007 changes are unable to renew their licenses, and there are many Oregonians who cannot demonstrate eligibility for a traditional driver’s license, including seniors who were born without or have lost their birth certificate, persons escaping domestic violence situations, veterans with a only military ID, as well as undocumented workers. These Oregonians will benefit from a limited purpose driver card, allowing them to safely and legally get to work, their place of worship and their children’s school.

The driver card could not be used as identification for air travel, to enter a federal building, to register to vote, or to obtain any government benefit requiring proof of citizenship or lawful presence in the U.S. Driver cards will help Oregon residents follow the law and improve safety for drivers, bicyclists, and pedestrians by reducing the number of uninsured and unlicensed drivers on the road.

The complicated issues surrounding immigration reform should be addressed at the federal level, not by restricting access to driver licenses. We support Measure 88 because it is a common sense proposal in the interest of public safety for all Oregonians.

Save the Date

Annual Liberty Dinner
February 27, 2015

SPECIAL GUEST:
SHERMAN ALEXIE
Measure 90
Top-Two Primary – NO

Measure 90 (the “top-two primary” measure) raises two civil liberties interests: meaningful access to the ballot for minority party and independent candidates and voters, and the right of association for political parties.

Individual opinions on M90 seem to rest on which prediction is most compelling: 1) the top-two primary will enfranchise thousands of voters who, because they do not affiliate with a major party, are currently unable to vote on candidates in the primary election; or 2) the top-two primary system will result in voter turnout rates in the primary remaining the same, but will vastly limit voter choice in the higher-turnout general election.

Experiments in other states with the top-two primary system, including California and Washington, so far, have failed to demonstrate the benefits predicted by proponents, such as increased voter turnout in elections. Instead, the risk that minor party and independent candidates will fail to advance past the primary election, means that those voices will not be heard in the general election and further alienate those voters. For this reason, the ACLU of Oregon finds the latter prediction more likely and opposes the measure.

Thank you Val & Will Aitchison

... for raising $6,380 for the ACLU Foundation of Oregon by hosting a Makana concert.

It was a beautiful evening of music in an incredible setting.

We are so grateful for friends like you!
Stay informed about civil liberties in Oregon at www.aclu-or.org

In the Courts

No-Fly victory – This spring, U.S. District Court Judge Anna Brown ruled the federal government’s No-Fly list violates our clients’ constitutional rights because it has denied them the right to international air travel without providing them notice that they are on the list, no information about why, and no meaningful process for rebutting their placement on the list. The judge has ordered the government to develop a process and provide our 13 clients a chance to clear their names. ACLU of Oregon cooperating attorney Steven Wilker of Tonkon Torp LLP is working with the ACLU National Security Project on this case.

Security Justifies Censorship – In a disappointing decision, the U.S. Supreme Court ruled in May that we cannot sue Secret Service agents for their decision to have peaceful protesters forcefully moved blocks away from, and out of earshot of, President George W. Bush during his campaign visit to Jacksonville, Oregon in October, 2004. Our lawsuit alleged that Secret Service Agents moved our clients further away from the President only because of their vocal criticism of the President’s policies and that action violated the protesters’ constitutional free speech rights.

The unanimous opinion by Justice Ginsburg stressed that while the Constitutional does not allow the Secret Service to treat protesters more harshly because of their viewpoint, the two agents were entitled to immunity because there were “plausible” security justifications for their decisions. Our case will continue against state and local law enforcement officers because we believe they used excessive force in moving the demonstrators. Steven Wilker of Tonkon Torp LLP is our cooperating attorney on this case and argued before the Court. Also assisting on the case has been Art Spitzer with ACLU of the Nation’s Capital, and National ACLU attorneys Steve Shapiro and Ben Wizner.

Warrant is Required to Access Oregon Prescription Drug Database – For the first time, a federal judge has ruled that patients have a reasonable expectation of privacy in their prescription drug records, and that law enforcement must obtain a warrant in order to search such information. National ACLU and the ACLU of Oregon represent a group of Oregon patients and a physician in the lawsuit against the Drug Enforcement Administration. The DEA has appealed the decision.

Dance Team Censorship – We settled a lawsuit against the Scappoose School District on behalf of a high school student and her mother over a policy that had prohibited any social media communications about the school’s dance team by team members or their families. Under the terms of the settlement, the district agreed that its policy had violated the free speech rights of students and their parents. In response to the ACLU’s lawsuit, the school district withdrew the policy in January and worked with the ACLU to finalize an appropriate settlement that included a written apology sent in a recent newsletter to the school community. Darin Sands, Anthony Stark and Whitney Button of Lane Powell, PC were the ACLU cooperating attorneys.

Protests on the State Capitol Steps – We were disappointed with a ruling by the Oregon Supreme Court which concluded that the rule implemented to end our clients’ 24-hour vigil outside the State Capitol did not, on its face, violate our clients’ rights to free speech or assembly. The Court said we had a right to go back to trial court to question Legislative leaders to determine if the reasoning for the rule was an impermissible restriction. However, the state has decided not to re-prosecute our clients on the criminal trespass charges. Our cooperating attorneys in this case are Jossi Davidson, Silverton Law LLC; Tim Volpert, Alan Galloway and Tim Campbell, Davis Wright Tremaine LLP; and Mike Swaim, Michael E. Swaim, PC.

Public Agencies Can’t Censor Ads, For Now – We have a victory in our challenge to TriMet’s refusal to run a paid “political” advertisement on its buses. The Oregon Court of Appeals had ruled in 2011 that TriMet’s policy is unconstitutional. That decision is now final because in April of this year the Oregon Supreme Court was evenly split on the case and therefore could issue no opinion. The Court of Appeals said that under the Oregon Constitution “…TriMet’s advertising policy violated Article I, section 8, to the extent that it classified speech on the basis of its content, notwithstanding that the policy regulated the use of government property.”

That Court of Appeals decision was the precedent relied on in our court win on behalf of Oregon Wild earlier this year. In that case, the Port of Portland did not want to allow Oregon Wild’s advertisement showing a clear-cut forest claiming the ad was “political” and controversial. The Port is appealing this decision. The fact that three justices of the Oregon Supreme Court disagreed with the Court of Appeals in the TriMet case is troubling. It could signal that some justices believe free speech rights don’t apply when government property is involved. Stay tuned. Tom Christ of Cosgrave Vergeer LLP, has been the ACLU of Oregon cooperating attorney in both of these cases.
On May 19, 2014, it became legal for same sex couples to marry in Oregon when federal Judge Michael McShane declared Oregon’s marriage ban unconstitutional. It was a joyful day of love and marriages - lots of them.

We have worked with allies for more than thirty years to achieve full equality for the LGBT community in Oregon. While our strategies have evolved and changed, our goal never did. On Valentine’s Day 2013, our ally Basic Rights Oregon (BRO) launched a ballot measure drive to make Oregon the first state to remove a marriage ban from its state constitution and replace it with an affirmative right to marry. We quickly joined the Executive Committee of Oregon United for Marriage and contributed $100,000 towards the effort in addition to helping recruit volunteers and donating staff time.

The ballot measure campaign was designed to build on the 2012 marriage victories in Maine, Maryland, Minnesota and Washington. Those elections were won, in part, using important messages developed through BRO’s marriage education efforts in Oregon in 2010-11.

In June 2013, when the U.S. Supreme Court struck down the federal Defense of Marriage Act in the ACLU’s case on behalf of Edie Windsor, the legal landscape shifted dramatically in favor of marriage equality.

By last fall, federal lawsuits were being filed in numerous states, including here in Oregon (ultimately 79 marriage lawsuits were filed in 32 states). We became convinced that going to court had a real chance of bringing marriage equality to Oregon even sooner than a ballot measure to be voted on in November 2014. We filed a federal lawsuit on behalf of couples Paul Rummell and Ben West and Lisa Chickadonz and Christine Tanner and Basic Rights Education Fund. In January 2014, our case was joined with the earlier lawsuit filed on behalf of couples Deanna Geiger and Janine Nelson and William Griesar and Robert Duehmig.

We are grateful to all of the plaintiff couples for sharing their stories of love and commitment with the court and the public. And we are grateful for the lawyers and law firms that handled these cases and worked together to bring about a wonderful result. Attorneys Lake Perriguey and Lea Ann Easton had the courage and foresight to bring the first lawsuit, Geiger and Nelson. The ACLU’s incredible legal team worked around the clock to build a solid case on behalf of our clients: Jennifer Middleton of Johnson, Johnson & Schaller of Eugene; Thomas Johnson, Misha Isaak and Kristina Holm of Perkins Coie of Portland, former ACLU of Oregon Legal Director Kevin Díaz and ACLU LGBT Project attorneys Rose Saxe, Amanda Goad and James Esseks.
 Ending Marijuana Prohibition in Oregon

EUROPEAN TRAVEL EXPERT AND MARIJUANA POLICY REFORM ADVocate, RICK STEVES, COMES TO OREGON:
10/7 – Portland
10/8 – Beaverton
10/9 – Eugene, McDonald Theater *ACLU Annual Membership Meeting*
10/10 – Medford
10/10 – Ashland
10/11 – Bend
10/8 – Salem
10/9 – Corvallis
10/12 – The Dalles
10/12 – Gresham

READ MORE ABOUT RICK STEVES ON PAGE 3.
Visit our website for complete event information: aclu-or.org/ricksteves.