



ACLU

OREGON NEWS

AMERICAN CIVIL LIBERTIES UNION
of OREGON

IN THIS ISSUE: LEGISLATIVE GOALS, PAGE 3; BOARD NOMINEES, PAGE 8

ISSUE 1, VOLUME 47, SPRING 2011

IT'S STILL A BAD IDEA TO JOIN THE FBI'S JOINT TERRORISM TASK FORCE

Operating under the principle that no civil liberties victory ever stays won, at the end of 2010 the Portland City Council decided to revisit the City's 2005 decision to withdraw from the FBI Joint Terrorism Task Force (JTTF).

Despite a call for immediate action by Portland City Commissioner Dan Saltzman for Portland to re-join the JTTF after the November Pioneer Square incident, Mayor Sam Adams decided to handle this question in a more deliberative process that has included the ACLU of Oregon.

Starting in 1997, the City of Portland signed an annual Memorandum of Understanding (MOU) with the FBI authorizing Portland police officers to be deputized as JTTF officers and operate under the authority of the FBI. However, we did not become aware of this until 2000, when it came before City Council in the form of an ordinance. That was when the ACLU of Oregon and our coalition partners began urging City Council to end direct participation in the FBI task force.

A Review of the FBI's Investigations of Certain Domestic Advocacy Groups



Oversite and Review Division
Office of the Inspector General
September 2010

The original 2000 mission of the JTTF (or, as referred to in the ordinance, the PJTTF) made clear that the FBI was focusing its efforts based on political activity and was set forth in both the City ordinance and MOU and included the following:

"The mission of the PJTTF is to identify and target for prosecution those individuals or groups who are responsible for Right Wing and/or Left Wing movements, as well as acts of the anti-abortion movement and the Animal Liberation Front/Earth Liberation Front."

Needless to say, it was a bit alarming to see lawful political activity apparently targeted. As then-Commissioner Charlie Hales suggested at the time, some may consider

the Portland City Council a "left wing movement."

However, despite his objection, the Council reauthorized the City's continued participation in the JTTF each year until 2005 (although they amended the "mission" statement).

CONTINUED ON PAGE 4

THANKS, CHARLIE!



On March 12, the ACLU of Oregon will present the first ever Charles F. Hinkle Distinguished Service Award to its namesake, Charlie Hinkle, at our annual Liberty Dinner.

The ACLU Foundation of Oregon Board of Directors created this award as a way of acknowledging individuals who provide incredible service to the ACLU of Oregon. We have named the award after Charlie Hinkle out of appreciation of the depth and breadth of his service to the ACLU of Oregon.

In anticipation of this occasion, we sat down with Charlie and did some reminiscing.

CONTINUED ON PAGE 10

Liberty Dinner
March 12
Details page 15

SPRING 2011 1

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AMERICAN CIVIL LIBERTIES UNION
of OREGON

YOUR NATIONWIDE ACLU FROM THE EXECUTIVE DIRECTOR



David Fidanque

I recently returned from the first ACLU staff conference in three years. While these gatherings used to be an annual event, the 2009 and 2010 conferences were cancelled because of the ongoing economic downturn.

When we last gathered in January 2008, Hillary Clinton was the front-runner for the Democratic presidential nomination and very few people outside of Alaska had ever heard of Sarah Palin.

A lot of things have also changed inside the ACLU. For about 40% of the staff who attended this year, it was their first ACLU staff conference. There also were far more staff under the age of 40 and the crowd was more diverse in terms of race and ethnicity than at any time in the past.

An even bigger sea change is that virtually all staff now view the ACLU as one nationwide organization rather than as a federation of state affiliates and a separate and distinct national organization. All levels of the ACLU now are collaborating more closely than ever before.

You can see evidence of that collaboration here in Oregon where National ACLU staff attorneys are working with us on the due process and right-to-travel issues raised by the federal government's No-Fly List.

We're also working closely with former FBI special agent Mike German — now an ACLU staff member — who is helping us tutor the City of Portland on federal policies that allow FBI Joint Terrorism Task Forces to snoop on the political and religious activities of law-abiding citizens.

The ACLU has also been doing more to support affiliates in the heartland where the threats are greatest and where we have far fewer members. The 24 smallest ACLU affiliates are now guaranteed at least \$250,000 a year from National and the rest of us. Among National's other goals has been to fund strategic efforts in affiliates where intensive work on particular issues can help transform the politics of civil liberties nationwide.

In Florida those funds have supported our work on voting rights and religious freedom. In Texas and Mississippi the funds are supporting work on racial justice and criminal justice.

When Arizona passed SB 1070, encouraging racial profiling by police officers, the National ACLU Immigrant Rights Project worked with the ACLU of Arizona to quickly file a lawsuit to prevent the law from taking effect. Just a few weeks later, National and 29 ACLU affiliates (including Oregon) issued travel alerts to warn Americans to take their passports with them if they traveled to Arizona. That campaign dramatized the very real harassment and intimidation faced every day by U.S. citizens of Latino descent in Arizona.

This is the kind of collaboration the ACLU now takes for granted. You can be proud that that ACLU is deploying the resources that you give us in the most effective ways possible. Not that we couldn't make good use of more funds if we can find them. There are plenty of civil liberties challenges ahead.

Nevertheless, we can be confident knowing that the next generation of civil liberties defenders are now on the staff of the Nationwide ACLU. At the tender age of 90 the ACLU is a permanent fixture on the American landscape.

Thanks again for all of your support.

DIVIDED LEGISLATURE RECONVENES FOR LIVELY SESSION

The Oregon legislature briefly convened on Jan. 10 and introduced over 1,600 legislative proposals. Of those, we are already tracking over 400. Clearly, there will be many civil liberties issues up for debate this session, and with a House evenly split (30-30) between Republicans and Democrats, it's anyone's guess what will happen.

The ACLU of Oregon is promoting two legislative proposals this session. The first, SB 266 would establish privacy protections around the creation of any tollways in Oregon.

While the ACLU does not take a position on the implementation of toll roads or toll bridges, we do believe there are important privacy protections that need to be put in place. These include ensuring that no matter the method of payment, the government (or the private sector if the state contracts with a private vendor to run toll systems) does not keep data that tracks when vehicles have passed through tolls.

Our proposal would also prevent any use of toll data for purposes other than toll collection, preventing any data mining or marketing use of this information. SB 266 was introduced at our request by former Sen. Rick Metsger. We will be urging the Senate Business, Transportation and Economic Development Committee to move the bill forward.

We are also engaged in a workgroup to follow up on our 2009 proposal establishing retention policies for DNA evidence in criminal cases. Almost 10 years ago, the ACLU of Oregon, along with others, successfully advocated for a DNA innocence law, allowing those who have been convicted to seek post-conviction DNA testing of evidence collected at the crime scene. Technology continues to improve, allowing the testing of evidence today that could not be tested even a few years ago.

However, unless evidence is retained, the DNA innocence law would be of very limited usefulness. As a result we drafted and had introduced legislation two years ago to establish a uniform state process for retention of biological evidence.

Our proposal was amended to establish a temporary moratorium against destruction of evidence, allowing interested parties to convene a workgroup to address various concerns. We have been meeting for months with all the stakeholders, and we are hopeful that a consensus legislative proposal will be introduced at the beginning of February.

Oregon would not be leading the way; many states have already put laws in place to ensure retention of biological evidence. We are cautiously optimistic that the Oregon legislature will move this proposal forward during the 2011 session.

As for other issues, we already know that the legislature will be considering many proposals that would undermine civil liberties and at least a few that will advance our protections. Some of the bills that concern us include:

1. State-mandated drug testing for those seeking unemployment compensation (an unconstitutional government search).
2. Weakening the Oregon Medical Marijuana Act.

3. Amending the Oregon Constitution's protection against unreasonable seizures that would allow drunk driving roadblocks.
4. Many proposals to change Oregon's public records laws; some that would improve the law but others that we will oppose because they would create even more exemptions to public records.
5. Copycat Arizona SB 1070-type proposals that would strip Oregonians of their fundamental civil liberties.

Since the session reconvened on February 1, we have seen dozens of additional bills that would negatively impact civil liberties and civil rights. We will have our hands full in what promises to be a very contentious session. While legislators are expected to have difficulty agreeing on how to balance the state budget, those disagreements may leave plenty of time for anti-civil liberties measures to work their way through the process.

You can play an important role in support of our legislative efforts. If you haven't already, please go to our website to sign up for our ACLU of Oregon action alerts. We will notify you when important votes are happening in the legislature and ask you to take action by contacting your state representative or senator.

We also invite you to join us at the ACLU of Oregon Lobby Day on April 7. Last session we had 50 ACLU members come to Salem to meet with their legislators in person and advocate for ACLU's issues. This year we want to double that turnout. It makes a huge difference when legislators hear directly from their ACLU constituents.

AFFIRMATIVE PRIORITIES THE ACLU OF OREGON SUPPORTS:

Protecting privacy and tolls: SB 266 would protect the privacy of motorists if and when Oregon begins charging tolls for bridges and highways. SB 266 would require that payment and location data about motorists could not be kept by the government once payment has been made. The idea is to prevent data mining and sale of individual motorist data regarding when and where motorists pass through tolls.

Preserving DNA evidence: We were instrumental in the passage of a DNA innocence law in Oregon 10 years ago, which allows convicted defendants to request DNA testing to prove their innocence. In recent years it has become abundantly clear that there is no consistent policy for the retention of biological evidence in criminal cases. We introduced such a retention law two years ago, but legislators imposed a two-year moratorium so that law enforcement agencies could work with us to propose a uniform policy in law.

When Mayor Tom Potter took office in January of that year, he began to ask the same questions that had concerned us for years. Among the most important was whether and what type of city oversight there was of the Portland officers participating in the JTTF.

Mayor Potter agreed with us that city oversight of PPB officers is critical for many reasons:

First, in any police department the chain of command is paramount. In Portland, that chain leads to the police chief and the commissioner in charge of the bureau, currently the mayor. If individual officers operate outside the chain of command, there can be no accountability to elected officials and city residents.

Second, Oregon law and the Oregon Constitution impose limits on police activity that are designed to protect the exercise of the core liberties of political, religious and associational activities so that we can all be free of improper surveillance by law enforcement.

Third, Portland has had a long history of police officers having engaged in improper surveillance.

Fourth, it is essential for police intelligence activities to be regularly reviewed by the Portland city attorney to ensure that Oregon law is being followed.

Fifth, police officers need to be able to consult with the city attorney when they have questions about the restrictions of state law and the Oregon Constitution.

Mayor Potter learned from his conversations with the city attorney, the FBI and the U.S. attorney that none of those safeguards was in place because local law enforcement officers are deputized as special federal officers and are given the highest level of FBI security clearance. Day-to-day operations of the JTTF are the responsibility of the FBI, and investigations are federal investigations subject only to federal law. That meant that as participants in the JTTF, Portland police officers could not comply with the stricter requirements of Oregon law and the Oregon Constitution.

In addition, since the police chief and mayor could not have top-secret clearance, the officers could not share their activities or their work product within their supervisors.

After unsuccessful attempts by Mayor Potter to negotiate a solution with the FBI and the U.S. attorney, the City Council voted in 2005 to formally withdraw from the JTTF. Instead, as set forth in the Council's resolution, the City and FBI agreed to work together on a case-by-case basis when criminal investigations arise in Portland. Indeed this was a compromise because it still turns over our officers to the FBI without the necessary oversight. But this was a far better solution than the

more permanent participation sought by the FBI on the task force.

Some have asked why this debate arises in Portland and not elsewhere across the country. First, it has come up elsewhere in the country. In San Francisco, the ACLU and its coalition partners are currently raising the same issues. Second, Portland has had a public process, as a result of the JTTF Memoranda of Understanding coming before the City Council. In many places, police bureaus enter into these agreements without a vote by the local elected body or any public notice.

Third, Oregon law provides unique protections that do not

exist in any other state. Specifically, ORS 181.575, which the ACLU of Oregon helped pass in 1981, prohibits any state or local law enforcement agency from collecting or maintaining information about the political, religious, social views or associations or activities of any individual, group or organization unless "such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct."

When Portland police officers are turned over to the FBI, which does not need to comply with this or any other Oregon law, the City abdicates both civilian and police bureau oversight responsibility over the individual police officers participating in the JTTF.

Portland's past abuses were a significant reason that ORS 181.575 was passed in 1981. The ACLU of Oregon received our first Portland police bureau file in 1975, and at that time the Police Bureau informed us that surveillance of the ACLU should not have happened and would not continue. But continue it did, and in 2000, through the release by the Portland Tribune -- which was the recipient of thousands of files collected by Portland police officers reflecting surveillance of lawful political activity -- we received our second Portland Police Bureau file from 1975 to 1985, four years after the passage of the Oregon law prohibiting this kind of activity.

Unfortunately, illegal monitoring of lawful political activity has continued to occur in Portland. Under the auspices of the Criminal Intelligence Unit (CIU), the same unit that was tasked with participating in the JTTF, Portland monitored the lawful planning activities of organizations meeting to organize around strengthening the civilian police review process. That document is dated 1992. The same unit also created a report on an anti-Iraq war protest. That was 1998. Our "history" of abuses in Portland is not that historic.

...there are two prongs to the Oregon law. The first is the prohibition on collecting information on a person or organization based on the political, religious or associational activities unless there is a criminal investigation. The second is a prohibition on maintaining this information if, after investigation, there is no evidence of criminal wrongdoing.

As a result of these abuses, the Portland city attorney has been charged with providing the necessary oversight to prevent these abuses. The city attorney provides legal advice to the officers at the front end of investigations and reviews the files created by the CIU and ensures that nothing is retained related to protected activities if there is no criminal investigation.

That critical and necessary oversight is completely abandoned when CIU officers join the FBI JTTF. The city attorney is not allowed to provide advice to the officers if they are asked to do anything that might violate the Oregon law, nor can the city attorney review the files created by Portland JTTF officers, because those are FBI, not Portland, files.

As noted, there are two prongs to the Oregon law. The first is the prohibition on collecting information on a person or organization based on the political, religious or associational activities unless there is a criminal investigation. The second is a prohibition on maintaining this information if, after investigation, there is no evidence of criminal wrongdoing.

A good example is the egregious experience in 2004 of Brandon Mayfield, who was wrongfully suspected of participating in criminal activity in Spain. The FBI's affidavit submitted to the courts included significant details about Mr. Mayfield's religious activities, including when he traveled to his mosque. But as we now know, Mr. Mayfield was completely exonerated of any wrongdoing. If the information on his religious activity had been collected by Portland police officers and the files were retained in Portland police files, his religious activity would have been purged. However, not only does the FBI not purge such information, it widely distributes it across numerous federal agencies.

The federal government asserts that Portland can participate in the JTTF and still comply with Oregon law. It argues that we should trust the Portland officers to not cross any lines violating Oregon law. That is a complete disconnect with the reasons why we have civilian oversight. Even assuming we did not have the evidence of past abuses, participating in the JTTF automatically leads to an end-run around Oregon law because the files that Portland police officers would create for the FBI could never be reviewed by other city officials and purged when appropriate.

When Mayor Tom Potter led the effort, along with Commissioner Randy Leonard, to pass the 2005 resolution withdrawing Portland police from the JTTF, he eloquently summarized the core issues:

"If I'm going to be asked to put our officers' lives at risk, I need to know why. If there are serious threats to our citizens' security, I want our police chief to know about them, and I want him to be able to tell me. If we are going to be the

guardians of individual freedoms, we must have faith in the checks and balances that have served our country so well."

Those reasons remain as true today as they did six years ago. Some have suggested that because we now have a different federal administration since 2005 — under President Obama — that we have a very different federal approach and we should rejoin the JTTF.

But has anything changed at the FBI since 2005? The answer is yes, but...things have actually gotten worse inside the FBI with regard to the protection of civil liberties.

There has been no change in leadership at the FBI since President Obama took office. And federal law has never adequately prohibited the FBI or other federal agencies from spying on the lawful political, religious or associational activities of innocent Americans. Such restrictions were imposed by the Attorney General Guidelines adopted in 1976, but those guidelines were successively weakened during the Reagan, Bush I and Bush II administrations. The revisions

adopted by Attorney General John Ashcroft in 2002 once again permitted FBI employees and informants to attend any event open to the public as well as to browse Internet chat rooms and websites.

The Ashcroft guidelines, under which the FBI operated in 2005, were loosened even further over the proceeding years and, finally, consolidated and revised in the waning days of the Bush administration in December 2008. These guidelines have not been changed by the Obama administration. They allow the FBI to even more easily monitor lawful political and religious activity.

The FBI has three separate but intertwined missions: law enforcement, national security (including counter-terrorism and counter-intelligence), and foreign intelligence collection. The latter two do not require any criminal nexus before collection activities are allowed.

Also, the 2008 Guidelines give the FBI the authority to conduct "assessments" without any factual predicate and "preliminary investigations" based on a mere allegation of wrongdoing or the possibility of criminal activity. The U.S. Department of Justice Office of Inspector General (OIG) concluded in a September 2010 report that this "possibility of criminal activity standard" is "easily attainable and speculative."

As the Inspector General wrote in analyzing FBI investigations of lawful political groups in Pittsburgh: "The FBI had information that could be interpreted to indicate the possibility that [individuals monitored] might be planning with others to engage in activities that could include federal crimes." While we cannot understand what that means, one thing is clear: it takes very little for the FBI to begin collecting information on lawful political and religious activity.

The federal government asserts that Portland can participate in the JTTF and still comply with Oregon law. It argues that we should trust the Portland officers to not cross any lines violating Oregon law.

CONTINUED ON PAGE 6



Mike German, formerly with the FBI, joined us at the Feb. 15 City Council presentation.

On our website, www.aclu-or.org, we have posted material related to this topic, including links to the full OIG Report. Despite the well-documented monitoring of lawful groups, including the investigation of People for the Ethical Treatment of Animals (PETA) and Greenpeace as possible terrorist organizations, the OIG concluded that much of the FBI's surveillance was legal under the Guidelines. Worse, the report documents an attempted cover-up by the FBI when the OIG began

its review of these specific activities.

In one case where a JTTF officer attended a 2002 peaceful anti-war leafleting event in Pittsburgh, the officer was acting within the Guidelines by attending the event, taking a photo and collecting information on the sponsoring organization. The OIG noted that the 2002 Attorney General Guidelines "did not require any demonstration of an articulable suspicion to attend the event. It simply required the agent ordering the activity have an antiterrorism purpose in mind."

While under the 2002 Guidelines no information the officer collected should have been retained, the OIG concluded that under the 2008 Guidelines it would now be permissible for JTTF officer to attend the event, take the photo, do Internet research on the sponsoring organization, and retain all of that information permanently in the FBI files despite there being no evidence of criminal activity.

And if all of this were not enough, after the 2008

Guidelines were put in place, the FBI assured Congress it would conduct training and take steps to ensure knowledge and understanding of the Guidelines, including a written exam for FBI agents. Another September 2010 OIG report looked into suspected cheating on that exam between spring 2009 and January 2010.

The OIG found "a significant number of FBI employees engaged in some form of improper conduct or cheating" on the Guideline exam. This included several supervisors, two Assistant Special Agents in Charge, two Supervisory Special Agents, and a legal advisor as well as numerous other agents and attorneys within the FBI.

We think it is abundantly clear that there is even more justification today for Portland and other jurisdictions to stay out of the JTTF than there was in 2005.

Since Mayor Sam Adams announced the process for re-examining whether Portland should rejoin the JTTF, we have joined many of our coalition partners and individuals in the community to express our objections.

The mayor invited the ACLU of Oregon, along with the FBI and the Oregon U.S. attorney to present before City Council at a special work session on this issue on Feb. 15. We are pleased to let you know that we will be joined at that presentation by Mike German from the National ACLU. Mr. German is a former FBI agent, and we look forward to the opportunity for him to share his expertise with the City Council.

As of this writing, the Council is expected to hold a public hearing and possibly vote on Feb. 24.

We are hopeful that the City of Portland will not rejoin the JTTF and that other state and local agencies will also reconsider their direct involvement with the FBI.

CIVIL LIBERTIES CONFERENCE DRAWS 150 PARTICIPANTS

The ACLU Northwest Civil Liberties conference held for the first time last October was a huge success, bringing together nearly 150 law students, nonprofit leaders, community members, judges and attorneys from all over the country.

"The conference provided an excellent overview of current civil liberties issues in our region as well as an introduction to the impressive work being done by state affiliates throughout the Northwest," said student Inga Nelson, who attended the conference.

The ACLU and the Lewis & Clark Law School ACLU student group hope to make this an annual event.



ACLU Executive Directors Panel, from left, includes David Fidanque of Oregon, Monica Hopkins of Idaho, Jeffrey Mittman of Alaska and Vanessa Chong of Hawaii. Scott Crichton of Montana also attended.

4J STUDENTS STAND UP AND SPEAK OUT ABOUT FREE SPEECH ON CAMPUS

The South Eugene High School ACLU Club pulled off an impressive feat recently: Bringing students from South Eugene and Willamette high schools together to engage in a thoughtful and deliberate conversation about free speech, privacy and hate speech on campus.

The Nov. 30 event was co-hosted by the Lane County Chapter board and moderated by 4J School District Superintendent George Russell.

Before an audience of approximately 50 people, members of the high school club provided context for the issues of religious dress in the classroom, student rights and technology, and bullying on campus, while their cohorts responded to questions on these topics posed by Superintendent Russell.

The students offered their perspective and exchanged diverse opinions on issues that many parents, teachers and school administrators struggle to address.

The level of discourse was notably civil and reasoned, even when the students disagreed with one another.

As Lane County Chapter board member Barbara Gordon-Lickey noted, "If young people like these are our future leaders, they are a cause for optimism."



4J Superintendent George Russell confers with student panelists prior to the Eugene forum.

Both the chapter and student club hope to hold a similar forum this year with the goal of involving other local youth groups such as the NAACP and Juventude FACETA.

UPDATE: NO-FLY LIST ARGUMENTS HEARD AS LAWSUIT MOVES FORWARD

Before a standing-room-only crowd and Judge Anna J. Brown, the ACLU's challenge to the "No-Fly List" went before U.S. District Court on Jan. 21. Oregonians from around the state, including many members of the local Muslim community, attended.

The U.S. government has been using the No-Fly List to prevent individuals from flying on commercial aircraft into or out of the United States. The list has become a nightmare for people who have been denied the ability to travel without being notified that they are on the list or why they are on the list.

The ACLU of Oregon and the National ACLU have challenged the No-Fly List because airline travel is a critical, and often the only practical, means of maintaining familial relationships or conducting business. For the U.S. government to unilaterally bar U.S. citizens and legal permanent residents from traveling by plane, without even as much as a letter notifying them that they continue to face such a restriction after complaining, is unconscionable. And effectively banishing individuals from the United States who have a right to be here, with no meaningful avenue to challenge the government's action, violates the constitutional due process rights we all hold dear.

Two issues were discussed on Jan. 21. The first was a jurisdictional issue involving whether or not our clients could even be heard at the District Court or whether they would have to file with the Court of Appeals. This is one of the government's most common tactics; bringing up every possible technical defense to delay any real hearing on the merits.

The other issue was our clients' motion to strike portions of the government's documents provided to the court because our copies had been redacted. Although we were unable to see exactly what it was the government had filed, if the judge were to rule against us, the court and the government would get to see items in the record, but we wouldn't. Needless to say, trying to respond to information you can't even see is challenging at best.

Prior to this hearing we had asked for a preliminary injunction ordering the government to allow our clients to fly home. They are all U.S. citizens or legal permanent residents. The court never heard arguments on that motion because the government caved prior to the court date and allowed all of our clients who wanted to return to the United States to do so.

On Jan. 21, after lengthy argument on both sides, the judge decided that she would like the complaint to be re-pled so that she could easily identify the claims for relief that were still in play.

Some of what we had stated in the latest complaint wasn't necessary given the current circumstances of our clients, and the judge wanted to make as clear a record as possible. After both sides are given an opportunity to submit their arguments in writing, the judge will issue a decision sometime after March 4. Our outstanding Motion to Strike will only be dealt with if necessary at a later date.

Ben Wizner and Nusrat Choudhury of ACLU National, Kevin Díaz of ACLU of Oregon and cooperating attorney Steven Wilker of Tonkon Torp LLP attended the hearing.

photo by Jimmi Harris

SLATE OF NOMINEES FOR A

NOMINEE TO FILL AT-LARGE VACANCY (2 YEARS REMAINING ON TERM):

Henry "Hank" Miggins (Portland)



Currently serves on the Portland Independent Police Review/Citizen Review Committee; Portland Charter Commission; retired from active duty in the United States Air Force, where he was a Certified Internal Auditor. He has served as vice president of financial affairs at Ft. Wright

College in Spokane, Wash.; deputy auditor for Multnomah County, as executive assistant to Multnomah County Chair Gladys McCoy, and as chair of the Multnomah County Board of Commissioners after McCoy's death; city manager for the City of Spokane, Wash.; the public member on the Oregon State Board of Bar Governors; and Treasurer for the ACLU of Oregon.

NOMINEES FOR EIGHT AT-LARGE POSITIONS (THREE-YEAR TERMS):

Laura Berg (Portland)



I first became an ACLU member in the late 1970s as a young adult in Missoula, Montana. My commitment to our civil liberties and political freedoms also goes back to my earlier involvement with the National Committee Against Repressive Legislation (NCARL), which started

as the National Committee to Abolish HUAC (House Un-American Activities Committee). I am employed as a private consultant, working with American Indian tribes and federal agencies on inter-cultural and government-to-government relations. For some two decades, I worked for the Columbia River Inter-Tribal Fish Commission in Portland and continue to consult on issues related to protecting and restoring salmon.

Joyce Cohen (Portland)



Past ACLU of Oregon board member and served as vice president for legislation, member of Budget and Executive Committees. Former member Oregon House of Representatives; former member Oregon State Senate and chair of the Senate Judiciary Committee; recipient of various ACLU legislative awards; public member,

Oregon State Bar; Board of Governors 1997-2000.

We would like to introduce you to the nominees for the ACLU of Oregon Board of Directors. There are nine at-large positions to be filled in 2011.

In a separate process, our three chapters each elect two voting representatives to serve on the statewide board, as well. Those chapters are the Benton-Linn Counties Chapter, Lane County Chapter and Southern Oregon Chapter, serving Jackson, Josephine and Klamath counties.

The Nominating Committee of the Board has several criteria to balance as it seeks candidates to run for election to the board. For example, ACLU policy requires that we strive to meet affirmative action goals for gender and racial/ethnic representation on the board in proportion to Oregon's population. Additionally, our affirmative action goals require that 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. The committee also asks each

Greg Hazarabedian (Eugene)



I first became an ACLU member in the 1970s as a young adult in the San Francisco Bay Area. While in law school I began working with the Southern District Lawyers Committee in Eugene and have done so since. I also recently served on the Litigation Review and Case Acceptance Criteria committees.

Annabelle Jaramillo (Philomath)



Former ACLU Board member; Benton County Commissioner since 2001; member of the Oregon Law Enforcement Contacts Data and Policy Review Committee, which oversees efforts to deter racial profiling; was a member of Governor Kulongoski's Task Force on Equality in Oregon, which recommended legislative adoption of the sexual orientation non-discrimination and domestic partnership laws; served as chair of the Oregon Commission on Hispanic Affairs and the Oregon Women's Political Caucus.

ACLU BOARD OF DIRECTORS

candidate to commit to 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 fund-raising duties.

This year, members will vote on eight of the 24 at-large board positions, as well as to fill an at-large vacancy. 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 2.

Additional nominees may be made by a petition of any 50 members. 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 28.

We would like to thank outgoing board members **Jeff Golden** (Ashland), **Stuart Kaplan** (Portland), **Heather Van Meter** (Portland) and **Janet Webster** (Newport) for their service to the ACLU of Oregon and dedication to preserving civil liberties and civil rights.

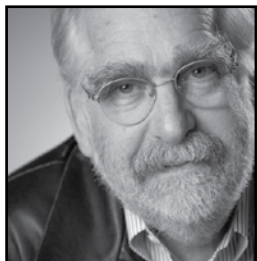
Stella Kinue Manabe (Hillsboro)



I am inter alia Sansei — a member of my family's third generation in the U.S., but raised in "the old country" which created a cultural chasm that later proved professionally helpful. A bachelor's degree in anthropology from the University of Hawaii and J.D. from the Northwestern School

of Law at Lewis & Clark's evening division helped to release pent-up questions. The new-found freedom to question contributed to my developing innovative programs to advance Lewis & Clark's and the Oregon State Bar's diversity missions. I now practice law at Guyer Meisner, Attorneys — a firm that walks the talk of diversity.

Robert Melnick (Eugene)



A resident of Oregon since 1982, I teach landscape architecture and historic preservation at the University of Oregon. Originally from New York, I lived in a small town in the Midwest for many years before moving west. I was raised in a family that believed strongly in the value and worth of each in-

dividual, and as a teenager I attended the 1963 March on Washington. Among my most cherished honors is the 2004

Martin Luther King, Jr., Award from the University of Oregon. I am deeply committed to the values and mission of ACLU, and especially issues of social justice, equal rights and individual privacy.

Candace Morgan (Portland)



Current ACLU of Oregon Board member and past president; Freedom to Read Foundation Board member and past president; former chair of the American Library Association's Intellectual Freedom Committee and Committee on Professional Ethics; Oregon Library Association Intellectual Freedom Committee member; served as Director of Community Library Services for Fort Vancouver Regional Library District for 21 years; and currently is an

adjunct faculty member at Emporia State University School of Library and Information Management; editor and contributing author of the 7th and 8th editions of the American Library Association's Intellectual Freedom Manual.

Surinder Bobbin Singh (Portland)



I am currently a May 2011 J.D. candidate at Lewis & Clark Law School, and I received my B.S. from Portland State University. Over the past two years, I have worked with a number of my peers to help reestablish the presence of the ACLU at L&C. We have coordinated numerous events and projects, which have included hosting respected civil rights advocates for lectures, coordinating social events with local non-profit organizations, coordinating pro-bono

work for students with local non-profits (assisting them with work ranging from indigent defense to death penalty cases), and founding and coordinating the first ever ACLU NW Civil Liberties Conference.

**Look for the ACLU 2011
Ballot in your mail --
coming in April**

Charlie grew up in Milwaukie, Ore., and received his undergraduate degree, with great distinction, from Stanford University. Then Charlie went east to attend Union Theological Seminary.

Part of his seminary education included the student interracial ministry of the National Council of Churches, which brought Charlie to Morehouse College in Atlanta, where he taught English in the 1966-'67 school year. This was a politically charged time in America and, in particular, the South. Civil rights issues were at the forefront — it was a time when the Rev. Dr. Martin Luther King Jr. was preaching in Atlanta and “Axe Handle” Lester Maddox was campaigning for governor of Georgia. These were some of the experiences that convinced Charlie to attend law school after he completed his Masters of Divinity degree.

Once at Yale Law School, Charlie joined the Black Student Union and helped that cause, becoming a ghostwriter of speeches and pamphlets.

After law school, Charlie returned to Oregon and, in the summer of 1971, passed the Oregon State Bar and joined the law firm of Stoel Rives (then known as Davies, Biggs, Strayer, Stoel and Boley).

Charlie has represented the ACLU of Oregon countless times before the state legislature, school boards and city councils; before school, civic and church audiences; on television and radio and in newsprint; and at numerous ACLU gatherings.

Our records note that a mere seven months later, in March 1972, Charlie took on his first volunteer task for the ACLU of Oregon, presenting written testimony to a legislative interim committee regarding ACLU's support of the legalization of marijuana.

Shortly after, in May 1972, Charlie (along with his law firm colleague Jere Webb and Salem lawyer Clemens Ady) filed his first ACLU lawsuit, *Burton v. Cascade Union School District*, which also was the ACLU of Oregon's first gay rights case.

Thus began Charlie's 40-year relationship with the ACLU of Oregon. He is most known for his work as a cooperating attorney, but he has served the organization in many capacities. For several years he served as a board member and board chair; as a member of the National ACLU board; and as a member of our Lawyers Committee for 30-plus years (and still counting), including many years as chair or vice chair of that committee.

Charlie is a popular choice as a public speaker on constitutional and civil liberties matters. He has represented the ACLU of Oregon countless times before the state legislature, school boards and city councils; before school, civic and church audiences; on television and radio and in newsprint; and at numerous ACLU gatherings.

In the months following 9/11, he was asked to speak to 17 different audiences regarding the constitutional crises developing in our country.

Charlie first testified in support of a gay rights bill before the Oregon legislature in 1975 and in every subsequent legislative session when a gay rights bill was introduced, including his testimony in 2007 when the anti-discrimination and domestic partner bills finally passed.

While we don't have the actual records, we believe it is accurate to say that there has not been a single year, since Charlie took on his first ACLU case in 1972, that he has not had an active ACLU case he was working on. And many years he had multiple ACLU cases going at once, including this year.

A partial list of the many important civil liberties cases that Charlie has worked on, include:

LESBIAN AND GAY RIGHTS

Beyond Charlie's representation of Peggy Burton, a school teacher who was fired because she is a lesbian, he also represented Harriet Merrick in a successful challenge to the Oregon Citizens Alliance's anti-gay Ballot Measure 8.

Then, in 1992, the OCA brought another statewide, anti-gay Measure to Oregon — Measure 9. Charlie, like many ACLU members, worked hard to oppose Measure 9. But many might not recall that in the same timeframe, the OCA launched dozens of local initiatives in Oregon cities and counties that we referred to as “Baby Nines” (late 1992-'94). Charlie and his Stoel Rives colleague Katherine McDowell led a team of ACLU cooperating attorneys in challenging 28 anti-gay measures, local and statewide, brought by the OCA in an 18-month period.

INITIATIVE REFORM

As Oregon's initiative system was used more and more to attack the Oregon Bill of Rights (free speech, equal protection, religious liberty, privacy and more), the ACLU of Oregon launched many lawsuits aimed at reforming the initiative process.

Charlie, along with Tom Christ and Katherine McDowell, was responsible for many important court decisions reining in an out-of-control initiative process. Their efforts put teeth into the single vote and full-text requirement (*Kerr v. Bradbury* 2004, 2006) for constitutional amendments.

And Charlie helped stop the practice of ballot-title shopping in which chief petitioners of initiatives would file multiple versions of their proposals, making minor changes here and there. This required the attorney general to create multiple versions of ballot titles and the petitioners would cherry-pick the ballot title that best suited their political needs. Charlie

CONTINUED ON PAGE 11

challenged the state to stop allowing the process to be manipulated in this way and, eventually, the process was changed. (Rooney v. Kulongoski, 1995)

RELIGIOUS LIBERTY

Charlie established an important precedent in the Kay vs. David Douglas School District (1983) case. This case challenged prayers at public high school commencement ceremonies, years before the U.S. Supreme Court issued its ruling on this matter.

It was Charlie's efforts that stopped Portland Mayor Frank Ivancie's attempt to have a city-sponsored (and paid for) prayer breakfast.

Charlie was part of the ACLU team, along with cooperating attorneys Paul Meyer and Andrea Meyer, to challenge the Portland Public School District's practice of allowing the Boy Scouts to recruit elementary school children even though the Scouts discriminate against atheists in its membership requirements.

And, most recently, Charlie successfully concluded a 10-year-long litigation effort to require the OSAA to provide a reasonable accommodation for the religious beliefs of Seventh Day Adventist students in scheduling high school tournaments.

But when we ask Charlie about these cases, he speaks mostly of his admiration for the individuals who have been brave enough to step forward and challenge an overreaching government or tyrannical majority. The highlight for him in doing this work has been meeting these people and supporting them as they showed remarkable courage in their challenges.

When asked to describe his disappointments, Charlie remarks on the times he believes the courts were not willing to match the courage of our clients, choosing to tap dance around the civil liberty at stake and rule instead on procedural issues, sometimes creating other civil liberties problems down the road.

Charlie has the gifts of language and persuasion that he has put to use countless times to convince judges and lawmakers, cajole bureaucrats, inspire activists and lawyers and bolster those who waver into doing the right thing for civil liberties and civil rights.

But when we ask Charlie about these cases, he speaks mostly of his admiration for the individuals who have been brave enough to step forward...

He is particularly fulfilled by the meeting he and several others had with Fred Stickel, longtime publisher of The Oregonian newspaper, at the height of the political campaign on Ballot Measure 9, in 1992. Measure 9 was a particularly

One day, Charlie, Ken Lewis, Cheryl Perrin, Rabbi Rose and Ellen Lowe met with Fred Stickel, an erudite, conservative businessman and faithful Catholic, to urge him to use his clout to oppose Measure 9. As a result of that meeting, Stickel took the unprecedented step of writing a front-page editorial urging Oregonians to vote to defeat Measure 9.

vicious initiative promoted by the Oregon Citizens Alliance to restrict the rights of lesbian and gay people. It was a measure that divided families and communities throughout Oregon and truly forced conversations about lesbian and gay people and civil rights in ways that had never before been broached in our state.

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Who else but Charlie can "beseech" us and move us with the centuries-old words of Cromwell and Shakespeare.

Charlie is fond of reminding ACLU audiences of Oliver Cromwell's plea, "I beseech you, my friends, to think it possible that you may be mistaken."

Charlie has observed that "Cromwell was saying that no one person, no one group, no one institution has a monopoly on truth. We should all be ready to acknowledge our fallibility; we all make mistakes."

And that is why ACLU has persevered all these decades; because we don't insist that our view of the world is the only correct view. To the contrary, we insist that all points of view deserve to be heard. And we never know when we might learn something new; when we might change our minds.

As we better understand the English teacher and ordained minister of the United Church of Christ, we better understand the quiet passion, relentless advocacy and wise counsel Charlie brings to his ACLU service.

We're grateful Charlie has chosen to give his invaluable service to the ACLU of Oregon and to the cause of defending and advancing civil liberties and civil rights. He has inspired countless numbers of us to find our own ways to serve this important cause.

Thanks, Charlie.

THE 2010 BANNED BOOKS WEEK AND UNCENSORED CELEBRATION A SUCCESS!

Banned Books Week is a time to celebrate intellectual freedom and the freedom to read. To mark the occasion in 2010, ACLU volunteers packed and shipped over 11,000 "I read banned books" buttons and flyers explaining Banned Books Week to 279 libraries and 10 bookstores. There are now over 40,000 "I read banned books" buttons in circulation throughout the state.

Also during Banned Books Week, the ACLU of Oregon hosts the annual Uncensored Celebration - a freedom of expression party that mixes local authors and local music! Over 80 people attended this year's Uncensored Celebration at Holocene in Portland. The evening was kicked off with banned book readings from Andi Zeisler, Dave Agranoff, Jil Freeman, Kevin Sampsell, and Tom Spanbauer. The Angry Orts started the dance party with their energetic pop/punk music. They were followed by the bhangra and Bollywood rhythms of DJ Anjali. The Lifesavas, complete with a full band and back-up singers, closed out the evening with their socially conscious hip-hop.

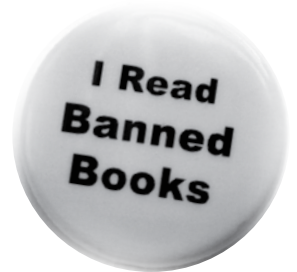
The Uncensored Celebration is organized by the Portland Outreach Committee, a group of people who work to cultivate the next set of civil libertarians - the 35 and under crowd! If you are interested in learning more about the Portland Outreach Committee, please email Sarah Armstrong, Outreach & Office Coordinator, at sarmstrong@aclu-or.org.

You can also stay informed online....



Follow us on Facebook!

www.facebook.com/ACLUofOregon



© Vaughn Zeitzwille

Andi Zeisler, co-founder of Bitch Magazine, reads from "And Tango Makes Three," the frequently challenged children's book that tells the true story of two male penguins who hatched an egg and raised a chick at the Central Park Zoo.



© Vaughn Zeitzwille

Portland hip-hop group Lifesavas, with a full band and back-up singers, rocked the stage at the 2010 Uncensored Celebration.

IS A CHARITABLE GIFT ANNUITY FOR YOU?

You might benefit from knowing more about charitable gift annuities. A charitable gift annuity is similar to a commercial annuity in that it involves a contract where the annuitant makes a lump-sum payment in return for a guaranteed income for the remainder of their life. However, with a charitable gift annuity, the contract is held by a charitable organization and the tax code allows for some significant tax benefits not available with a commercial annuity.

By making a one-time payment to the ACLU Foundation, you can receive a fixed income for life. The portion of the initial contribution to the ACLU Foundation would qualify as a charitable contribution that could be deducted by those who itemize their income tax. In addition, a percentage of the income received each year would be tax-free income. Using appreciated stock to fund the charitable gift annuity could bring additional tax benefits.

The ACLU Foundation requires a minimum contribution of \$5,000 for a charitable gift annuity and beneficiaries must be at least 60 to begin receiving payments. The rates are determined by the age of the annuitant at the time of the initial contribution. Annuities can be taken out in the name of one or two individuals, however the rate is lower for two individuals. With low interest and low dividends on stocks, the rates for a charitable gift annuity can be very competitive.

If you would like to find out what the rate of return might be for your particular situation, you can go to:

www.aclu.planyourlegacy.org/giftcharitg.php.

Are you retired or nearing retirement? Are you looking for a steady dependable income? Do you support the work of the ACLU?

(We will assume the answer to the last question is "yes" since you are reading this newsletter).

You can find out more information about how charitable gift annuities work and what the current rates are. You can also enter your personal information online and receive a calculation of what your payments and tax benefits might be.

If you have any additional questions about charitable gift annuities, you can contact the national Planned Giving Department at (877) 867-1025 or contact James K. Phelps, development director of the Oregon affiliate at (503) 552-2101 or jphelps@aclu-or.org.

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IN THE CHAPTERS

LANE COUNTY CHAPTER SEEKS TO BUILD BRIDGES WITH IMMIGRANT COMMUNITY

You can expect something different from the Lane County Chapter's Annual Membership meeting this year. Recognizing the need to build stronger ties with their community, the chapter with the Amigos Immigrant Rights Advocacy Program and their youth program Juventud FACETA are hosting a special event designed to bring together ACLU members and the Latino community.

The free public event will take place from 10 a.m. to 2 p.m. Feb. 26 in the Whiteaker Community Center Cafeteria (21 N. Grand, Eugene) and includes a light lunch.

The day's program will highlight the human rights struggles of immigrants in our community and country. The morning will begin with presentations from local youth involved with Amigos and ACLU of Oregon. Juventud FACETA will present its locally produced short film "Immigrant Rights are Human Rights."

Members of the ACLU of Oregon Youth Outreach Team will offer practical advice with their "Know Your Rights when Dealing with Law Enforcement" training.

A lunch-time keynote address by ACLU of Oregon Legal Director Kevin Díaz will provide a statewide overview of immigrant rights in Oregon and highlight the upcoming work of ACLU on this and related issues. After his address, Mr. Díaz will be joined by Guadalupe Quinn, Lane County Chapter board member and coordinator of the Immigrant Rights Advocacy Program with Amigos, to engage participants and attendees in a dialogue about the status of immigrants in our community and how ACLU of Oregon members can support efforts to defend immigrant rights.

Musical entertainment provided by the vocal group In Accord will help to keep the program lively. The chapter will hold its board election from 2 to 2:30 p.m.

Recent national events and the passage of SB1070 in Arizona highlight the need for greater understanding of the rights of immigrants in our country and our state. Real harm results when our neighbors are forced to live in fear because of their status as immigrants.

The rights guaranteed by the Bill of Rights apply to all persons in the U.S. whether immigrant or native-born.

Legislative efforts to curtail the rights of immigrants in Oregon are sure to arise in the coming year. ACLU of Oregon is ready to meet those challenges but will need the support of members and allies to prevail against the bigotry and misinformation that accompany such efforts.

By offering this opportunity to share a meal, learn from our neighbors, and promote the vision of immigrant rights as human rights, the Lane County Chapter and Amigos are laying the ground work to see that our efforts to protect everyone's rights will succeed.

BUILDING BRIDGES RESPECTING RIGHTS:

Lane County Chapter Annual Membership Meeting

Saturday, Feb. 26

Whiteaker Community

Center Cafeteria

21 N. Grand, Eugene

10 a.m. to 2 p.m.:

Immigrant Rights are Human Rights program

2 to 2:30 p.m.: Chapter board election

Free and open to the public, lunch provided
Co-sponsored by Amigos Multicultural Services
Please RSVP csyrett@aclu-or.org or 541-345-6162
(message only)

SOUTHERN OREGON CHAPTER

At its December meeting the Southern Oregon chapter elected a new chair and set its meeting schedule for the upcoming year. Cate Hartzell took over as chair from Derek Volkart, who will continue to serve as one of the chapter's representatives to the state board.

Ralph Temple will continue to serve as the other state board representative. Julie Norman and George Converse were re-elected to their respective positions as vice chair and secretary.

The chapter board will continue to meet at the Ashland Library from 10 a.m. to 12:30 p.m. Meeting dates for 2011 are Feb. 19, April 16, June 18, Aug. 20 and Oct. 22, which will also be the chapter's annual membership meeting. This meeting date is tentative and may be moved to Oct. 23.

BENTON-LINN CHAPTER

The Benton-Linn Chapter has elected a new chair, Bobby Mauger.

Mr. Mauger and other board members are planning a public forum for the spring on the topic of digital privacy. They will be seeking participation from Oregon State University faculty and students in hopes of building stronger ties to the campus.

The chapter board meets monthly on the second Wednesday of the month at 7 p.m. Meeting locations are chosen on a monthly basis. Please contact Claire Syrett (csyrett@aclu.or.org) if you would like to know where the chapter meeting will be held in a particular month.

NATIONAL ACLU PRESIDENT TO SPEAK AT LIBERTY DINNER

Please join us on the evening of March 12 for the 2011 ACLU Foundation of Oregon Liberty Dinner in the Pavilion Room of the Portland Hilton (921 SW 6th Ave., Portland). This annual event celebrates the work of the ACLU of Oregon and the ACLU Foundation of Oregon.

Susan Herman, president of the American Civil Liberties Union will be making her first official visit to the Oregon affiliate since being elected to the highest-ranking volunteer position in October 2008. She will brief the guests of the state of civil liberties in America while David Fidanque, executive director of the ACLU of Oregon, will focus on issues closer to home.

We will also be honoring a volunteer who has given 40 years of service to the ACLU of Oregon. Charlie Hinkle will receive the inaugural Charles F. Hinkle Distinguished Service Award. This award was created 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."

Hinkle began volunteering with the ACLU shortly after joining the Oregon State Bar in 1971. He has served as a cooperating attorney, board member and speaker providing thousands of hours of volunteer service.

This annual gala is the largest fundraising event for the ACLU Foundation of Oregon. Proceeds from the evening support the ACLU's legal and education programming. Spon-

sors include Ayers Creek Farm, Stoel Rives LLP, Terry Bean, and Morel Communications.

General admission tickets are \$125 per person. A VIP ticket is available for \$200 that provides admission to a hosted reception with special guests Susan Herman and Charlie Hinkle.

The general reception begins in the lobby outside the Pavilion Room at 6 p.m., and the doors open to dinner at 7 p.m. The hosted reception for those with VIP tickets begins at 5:30 p.m.



Photo by Alex Silver/The Cornell Daily Sun

**Tickets can be purchased online at
www.aclu-or.org/dinner
or by contacting James K. Phelps,
development director, at (503) 552-2101
or jphelps@aclu-or.org.**

DO YOU KNOW YOUR RIGHTS?



ACLU of Oregon Legal Director, Kevin Diaz, leads a "Know Your Rights" lecture to a group at the Center for Intercultural Organizing in Portland in December 2010.

**Get your own
"Know Your Rights"
card at our website:
www.aclu-or.org**

ACLU OF OREGON MEMBERS ARE KEY TO LOBBY DAY SUCCESS

Mark your calendar to join us in Salem on April 7 for the ACLU of Oregon's Lobby Day.

The participation of ACLU members will be the key to making this day as successful as our first Lobby Day, held in 2009, when more than 50 supporters and volunteers came to the Capitol for one-on-one meetings with their senators and representatives. That event made a real difference for civil liberties in Oregon.

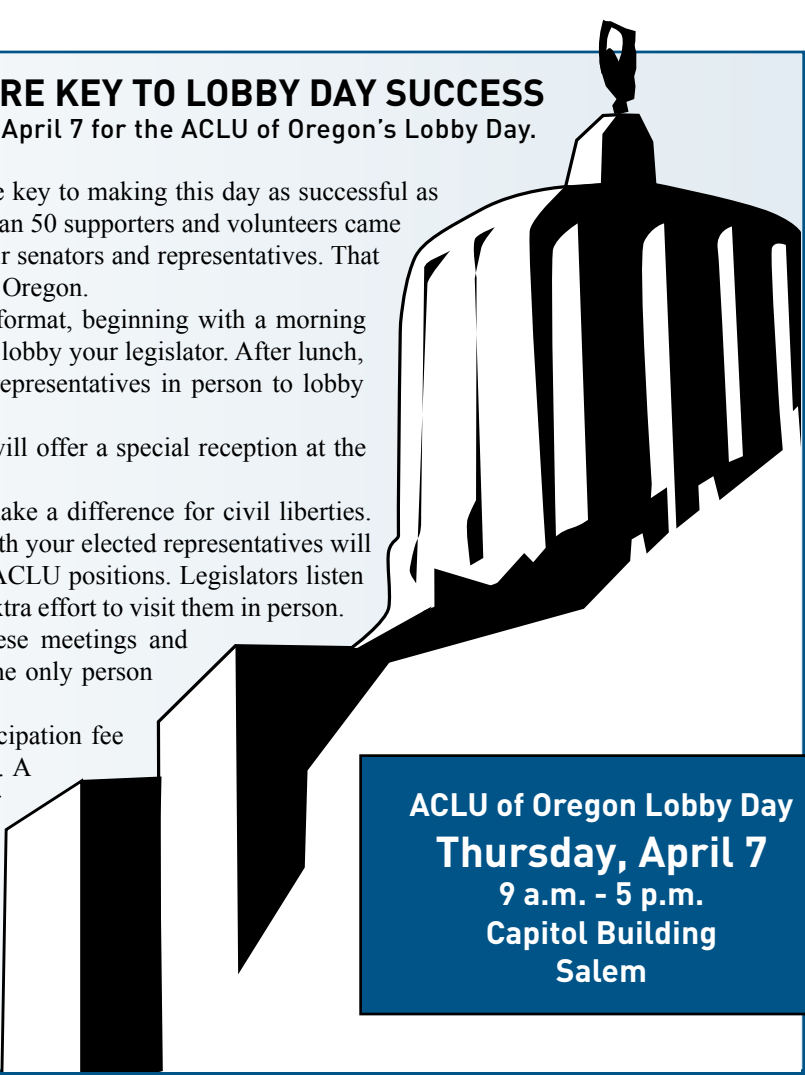
This year's program will follow a similar format, beginning with a morning welcome, issues briefing and training on how to lobby your legislator. After lunch, participants will meet with their senators and representatives in person to lobby them on specific legislation.

For those who stay for the entire day, we will offer a special reception at the end of the program.

Don't miss this important opportunity to make a difference for civil liberties. Your presence in Salem, meeting face to face with your elected representatives will have an impact on their willingness to support ACLU positions. Legislators listen more closely when their constituents make the extra effort to visit them in person. ACLU members will be well prepared for these meetings and paired up with a partner if they happen to be the only person from their district participating in Lobby Day.

Pre-registration is required and a \$10 participation fee will help cover the cost of lunch and materials. A limited number of scholarships are available for students and low-income participants.

You can register and find out more on our website: www.aclu-or.org/lobbyday2011.



ACLU of Oregon Lobby Day
Thursday, April 7
9 a.m. - 5 p.m.
Capitol Building
Salem

REGISTER AT: www.aclu-or.org/lobbyday2011