

ACLU WV magazine



HATE BEHIND CLOSED DOORS

A LEGISLATIVE SESSION UNLIKE ANY OTHER



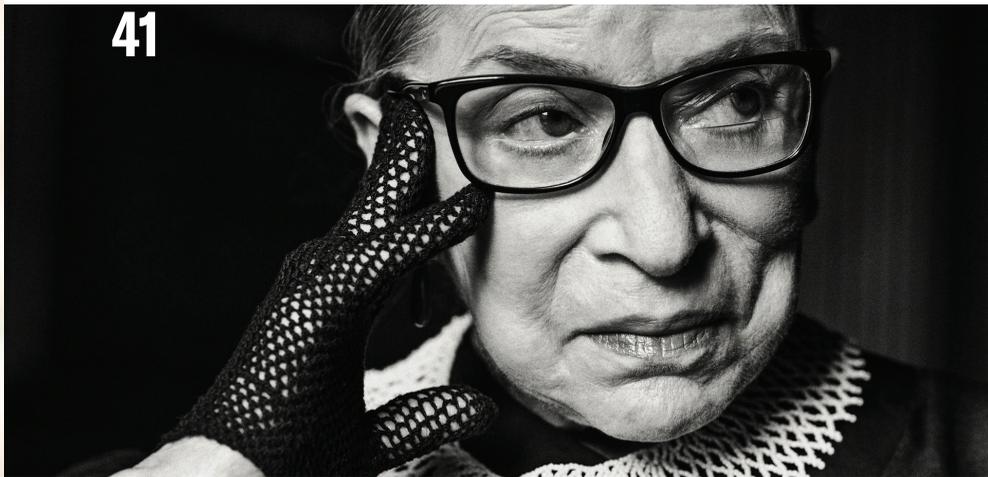
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Contributors



Olivia Addis is a senior studying journalism at Ohio University. She served as an ACLU-WV communications intern and contributed layout and design to this issue.



Josh Martin is a professor of graphic design, computer graphics, and digital photography at West Virginia State University. He contributed digital illustration to this issue, including the cover design.

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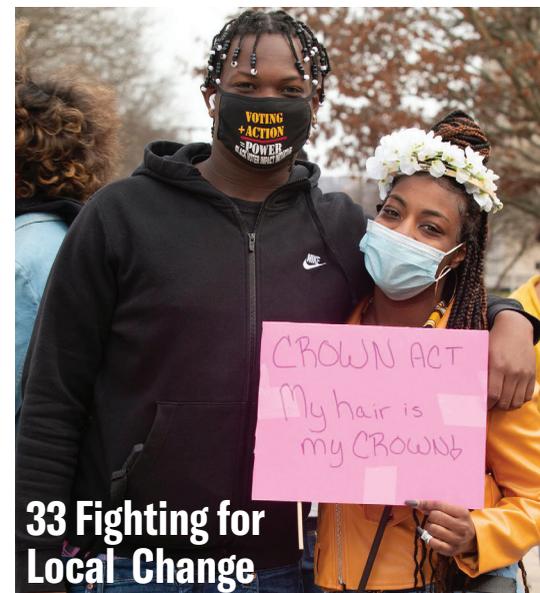
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FROM OUR DIRECTOR

Dear ACLU of West Virginia Family,

It has been an incredibly long and difficult year for humankind. As I write this letter, more than 3.2 million people worldwide — and nearly 600,000 people in the United States — have died from the novel coronavirus. Countless more suffer from long-term effects of the illness. So many people were alone when they died, and so many survivors were unable to mourn as needed.

Without the physical contact of friends and family and with so many added stresses, we face a global mental health crisis. “Am I going to lose my job? How can I homeschool my children and work at the same time? Am I going to see my grandkids again? Am I going to get sick? Am I going to die?”

Like all of you, the staff at ACLU-WV faced all of these concerns. At the same time, we were seeing unprecedented attacks on civil liberties, from threats to the lives of incarcerated people to attempts to use the pandemic as an excuse to ban abortion in West Virginia. Moreover, COVID-19 exacerbated all the systemic inequalities the ACLU fights against every day. The white supremacy infecting American life manifested itself in so many ways, most shamefully in the higher transmission and death rates in Black and brown communities. As the whole world seemed to be falling apart, the work of the ACLU of West Virginia was needed more than ever.

“The pandemic has exposed massive failings in our systems and made the need for major reform crystal clear.”



While I was out of the country on a very poorly timed family vacation, we made a sudden decision to shut down our office on March 13, 2020. Just more than 13 months later, I'm so happy to say all of the ACLU of West Virginia staff is fully vaccinated and on April 30, 2021, we got together for a much-needed, long-awaited, in-person meeting. During the time between the office closing and everyone getting vaccinated, our staff went to incredible lengths and made real sacrifices to do all we could to fight for fairness and justice as so many of our institutions bowed under the pressure of the pandemic.

We learned to use technology to stay connected to one another and to advocate on behalf of our clients. We made sure everyone on staff had a work set up at home that let them do their job remotely. We completely overhauled our organizing and community education work to deal with realities of the pandemic. We found a way to hold the Appalachian Queer Youth Summit and kick off a major project organizing formerly incarcerated people, all remotely. We created two new full-time positions. And we dealt with kids, and parents, and illness, and fear, and loneliness, and mourning, and everything else this wretched pandemic threw our way.

As we emerge from isolation, hopefully on track for something close to normal, it's important to express gratitude for what we have and what we've been able to accomplish during this dark year. The pandemic has exposed massive failings in our systems and made the need for major reform crystal clear. But it has also laid bare our shared humanity and the undeniable truth that, when guided by compassion and empathy, we can get closer to the just society we all deserve.

In peace and solidarity,



Joseph Cohen
Executive Director



OUR STAFF



Joseph Cohen | Executive Director

Eli Baumwell | Advocacy Director

Loree Stark | Legal Director

Billy Wolfe | Communications Director

Mollie Kennedy | Community Outreach Director

Rose Winland | Operations and Development Manager

Jackie Lozano | Immigrants' Rights Campaign Coordinator

Dijon Stokes | Advocacy Specialist

Greg Whittington | Criminal Law Reform Director

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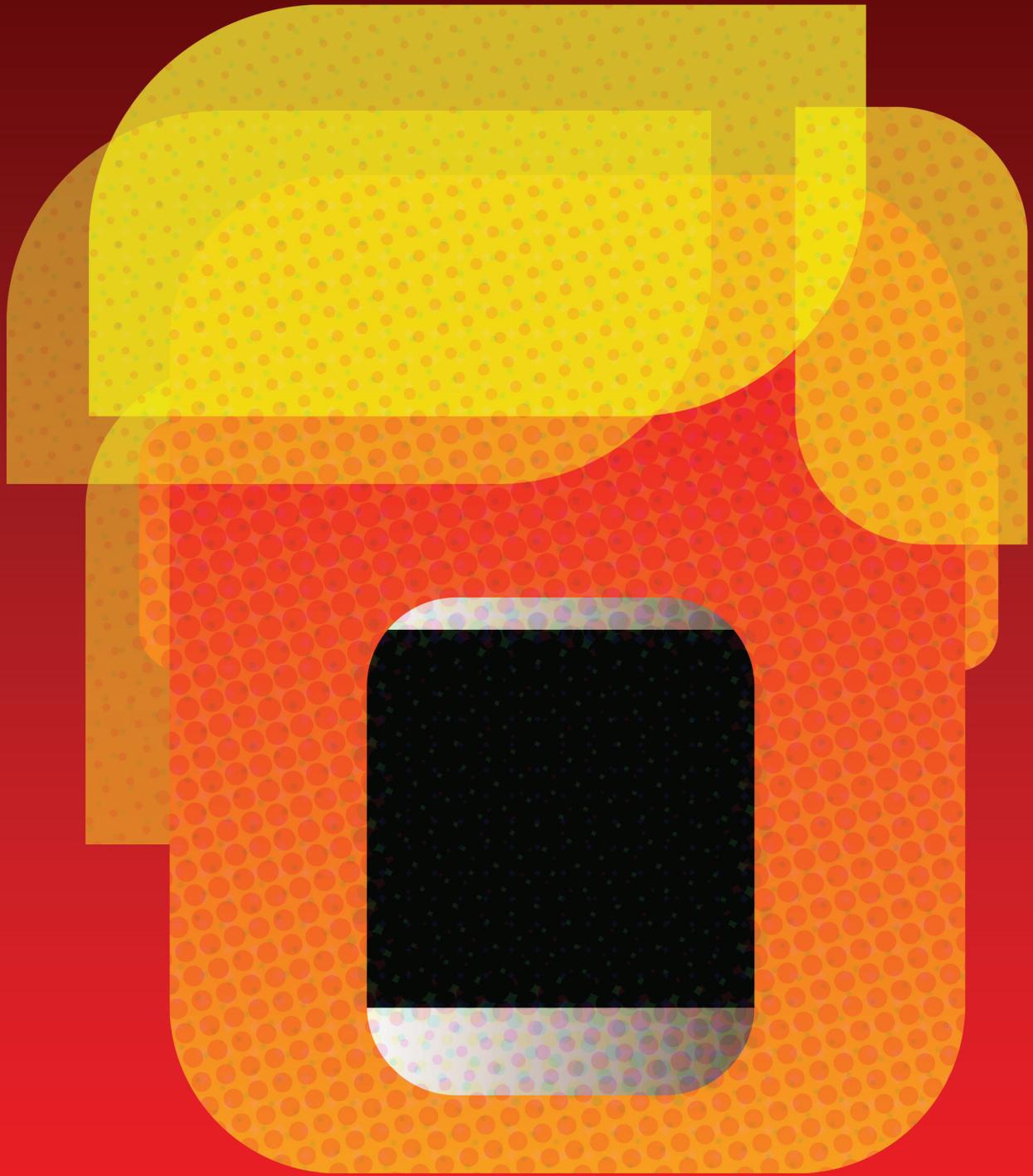
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FOUR YEARS LATER

by **Joseph Cohen**

President
Trump's chaotic
single term
has come
to a close,
but Trumpism
lives on in
West Virginia.

illustrations by
Josh Martin



January 20, 2021 was Donald Trump's final day in office.

In a deliciously fitting coincidence, it also happened to be the ACLU's 101st birthday. During its long history, our organization has seen presidents come and go. Some have tested this country's dedication to democratic values more than others. The Trump presidency was an unprecedented test for our country and an unprecedented test for the ACLU.

Four years ago, just after Donald Trump was inaugurated, thousands of people from around West Virginia gathered at our state Capitol building for the first Women's March. There was a palpable sense of fear, anger, confusion, and determination in the crowd. People were ready to organize and fight back against the new president who campaigned on an anti-human rights platform and denigrating minorities.

Four years later, our country is very different. Lines have been crossed. For many, our expectations of our government, our trust in the system and in one another, have never been lower. For others, a system always stacked against them has continued to grind mercilessly down on them. From a civil liberties perspective, these past four years have been an unrelenting attack.

Yet, by standing together, and fighting back against the most imposing powers on earth, we've prevented some of the worst impulses of our leadership from taking hold. We've certainly had devastating losses over the past four years, but our movement for peace and justice has also had its share of wins.

During Trump's four years in office, the ACLU filed 413 legal actions challenging administration actions. We turned out thousands of people to airports, courthouses, and mass mobilizations. We filed our first legal actions just days into the Trump administration.

Who can forget the deep emotion — the sense so much was at risk — when we challenged the first Muslim Ban? And who can forget the great relief when we won those early cases and the rule of law prevailed?

We filed our last legal action against the Trump administration less than a week before his term ended. We stood watch from day one until the minute Trump left office. And now, our watch continues.

During the four years of the Trump presidency, we



413

Total ACLU legal actions against the Trump administration

won victories to stop LGBTQ employment discrimination, protected and expanded voting rights, blocked attacks on abortion rights, worked to reunite families needlessly separated at our southern border, and preserved

protections for Dreamers.

President Trump tried to divide us with his policies and rhetoric. He tried to make us a nation of us vs. them. He pitted immigrants against citizens, and fanned the flames of white supremacy while Black people were murdered by police. He called certain cities and states more deserving than others. He waged war



against our free press. And he attacked the very basis of our democracy.

After 101 years, we at ACLU are not surprised when presidents disappoint us. We've sued every president in our existence, and won't likely stop with the Biden Administration.

We were never living in Donald Trump's America. No, Donald Trump lives in our America. In our United States of America, "we the people" means all of us. The ACLU will keep fighting to advance freedoms where we can, and defend them where we must.

We are committed to working with — but also holding President Biden and Vice President Harris accountable — to the promise of our Constitution. With

our help, they can be the transformational leaders that our country needs and deserves right now. And

thanks to people like you, we now have the strongest ACLU our nation has ever known.

There is much work to do to create a more perfect union. Here in West Virginia, Trump's legacy and influence is strong. We have a bunch of mini-Trumps in office who are committed to the same discriminatory, anti-democratic policies that were the hallmark of the Trump administration.

We won't rest until we live in an America and a West Virginia where equality and justice are a lived reality for all of us. We never lost hope, and we are now more resolute than ever. We are certain our ACLU values and principles

will continue to prevail for the next 101 years.

"We the people" deserve — and will accept — nothing less.

“By standing together and fighting back against some of the most imposing powers on earth, we’ve prevented some of the worst impulses of leadership taking hold.”

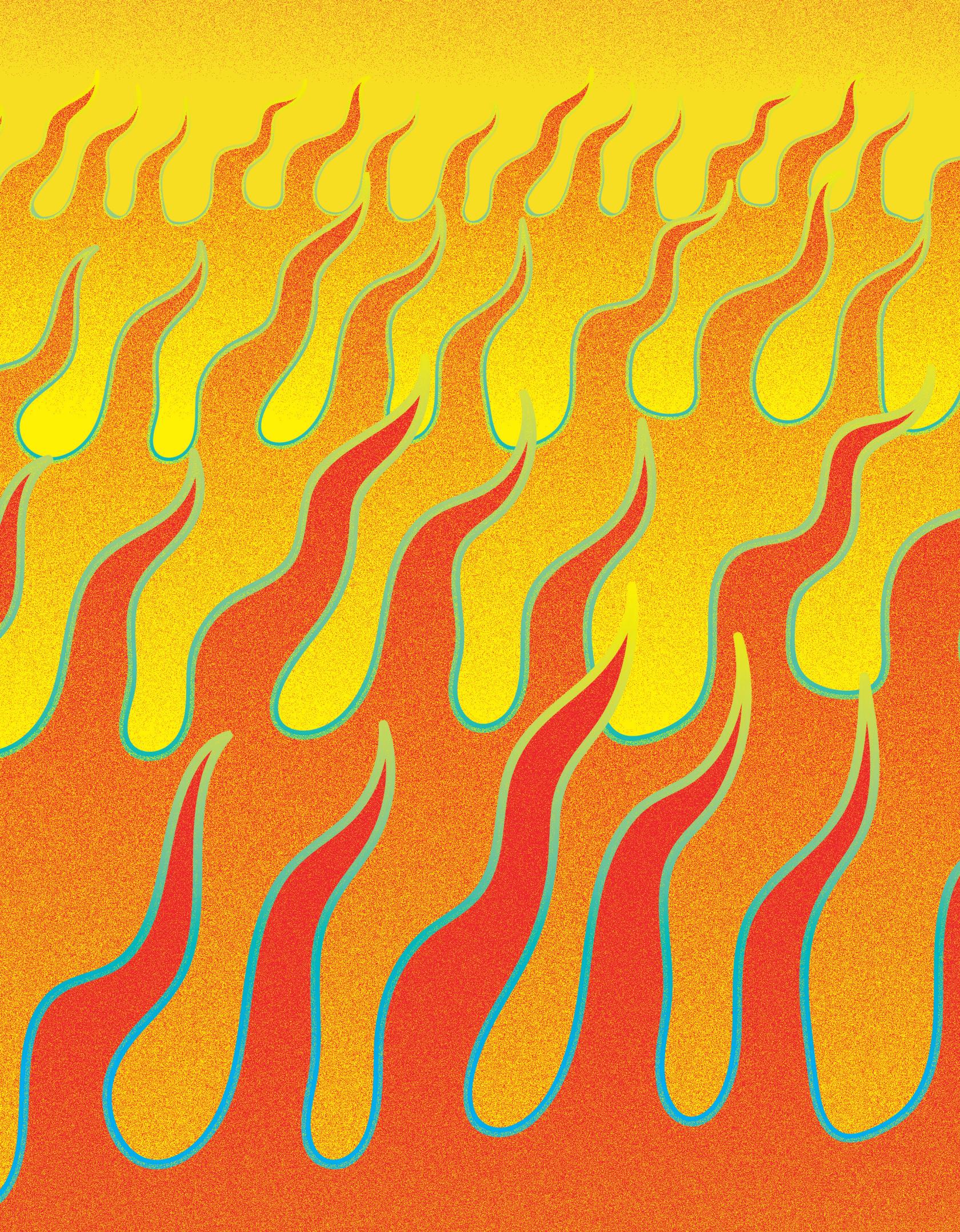




illustration by Josh Martin

HATE BEHIND CLOSED DOORS

by Eli Baumwell & Billy Wolfe

The 2021 Legislative Session was unlike any in recent memory.

The elections delivered a single party with a supermajority in both chambers and control of all constitutional offices. Citing the COVID-19 pandemic, officials closed the Capitol off to everyone except those with appointments. The closure continued well after Gov. Jim Justice reopened most of the rest of the state.

The pandemic also limited committee meetings, meaning fewer meetings overall and more bills referred to a single committee in each chamber.

The result was a party in full control, with limited public oversight, limited involvement from stakeholders, and less time to study bills. Extremists seized the opportunity to push a bevy of bad bills, many of which made it to the governor's desk.

With little public input, lawmakers passed a ban on trans student athletes, an effective ban on CDC-approved harm reduction programs, a drug-testing requirement for people receiving food assistance, a mandate that doctors provide medically inaccurate information to patients seeking abortions, and a bill funneling public funding into private schools that discriminate.

The only outlet the public had to view the proceedings was a live video feed on the Legislature's website. But on more than one occasion, lawmakers knowingly continued to conduct business while the feed was malfunctioning, thereby shutting out the public entirely.

We had a full team of advocates, including Policy Director Eli Baumwell, Voting Rights Project Manager Dijon Stokes, Criminal Legal Reform Director Greg

Making this state unwelcoming to transgender people doesn't make a child like mine want to stay.

- Kelly Meyers, Morgantown

Whittington, Immigrants' Rights Campaign Coordinator Jackie Lozano, and Executive Director Joseph Cohen. Additionally, ACLU-WV took on two paid policy interns (Jomo Smith, Jr., and India Frith).

Even with an all-star team, the odds were against civil liberties from the beginning.

Attacking Trans Kids

Lawmakers made science denial a hallmark of the session, something that is easy to do when experts are kept at arm's length.

They took no testimony from transgender people or their parents, and moved to greatly limit testimony overall when they passed a bill banning trans girls from participating in sports.

Despite tens of thousands of calls and emails from our supporters, and warnings the bill violates federal law, the bill sailed to passage. Gov. Justice said he was "proud" to sign it.

Trans youth are among the most marginalized people in society, and there is no evidence to suggest they enjoy any competitive advantages over their cisgender peers. And yet, lawmakers insisted they were protecting girls' sports by banning trans girls from participation.

Kelly Meyers, a Morgantown mother of a transgender daughter, said the bill was an attempt to solve a problem that doesn't exist.

"If we want to protect girls' and women's sports, we should look at funding and recognition, not prohibiting people from being included," Meyers said.

The bill is not only hateful, it's also unlawful under Title IX of the Civil Rights Act. As of publishing, a conservative, Trump-appointed judge already struck down

one such law. ACLU-WV has put officials on notice: if this law is enforced, we will not hesitate to sue and fully expect to win.

Ending Harm Reduction

Lawmakers again scoffed at science when they passed a bill ending lifesaving harm reduction programs in West Virginia.

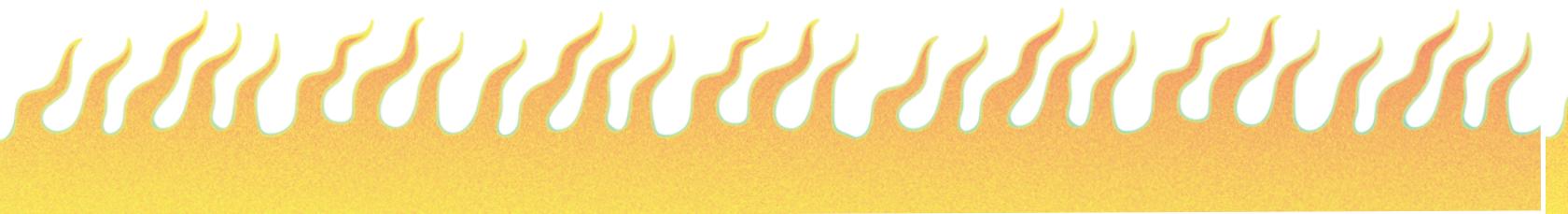
These programs are desperately needed in West Virginia, the epicenter of the opioid addiction crisis and Ground Zero for what the CDC calls "the most concerning HIV outbreak in the nation."

Animosity for drug users and those trying to save their lives is bipartisan in West Virginia. Not long after the Republican-dominated Legislature passed its bill, the Democratically-led Charleston City Council passed a bill even more heinous, imposing criminal penalties for operating CDC-approved harm reduction efforts.

The results of such callous disregard for evidence-based medicine will be deadly.

The focus of the city's ordinance is a group called Solutions Oriented Addiction Response, or SOAR. ACLU-WV represented the group when Charleston police opened a baseless criminal investigation against them in November 2020. The investigation was later closed when no evidence of law-breaking was found.

As a result, city council tragically decided to criminalize the group's lifesaving work. Let's be clear: harm reduction saves lives. Criminalizing efforts to help addicted people will not result in less addiction, but rather higher infection rates and more death.



Everyone Deserves to Eat

Despite research showing such laws are ineffective and costly, the Legislature also passed a bill to extend a pilot program requiring drug testing of anyone receiving assistance through TANF, the state's food assistance program.

They did this even though their own data demonstrated exactly one person was guided into recovery by the program while more than a hundred people who needed assistance did not follow through on their applications.

ACLU-WV opposes suspicionless drug testing because it is a violation of our fundamental right to privacy. These laws also cost far more money than they save, fail to detect drug users and help them seek recovery, and stigmatize poor people. Everyone deserves to eat. In many cases, people who use drugs will simply stop applying for assistance, meaning they and their children go hungry.

Forcing Bad Medical Advice

Restricting abortion rights has been a regular feature of nearly every session for many years now. With the passage of HB 2982, 2021 was no different.

The bill targets medication or "chemical" abortions – when a medication is used to end an early pregnancy. A single study, which had to be ended early due to the medication causing hemorrhaging, found that it may be possible to counteract the process if another medication is taken between doses. Notably, no major medical bodies, including the FDA, approve or recommend this process.

With passage of this bill, physicians prescribing medication to terminate a pregnancy will now be required to notify patients there is a way to counteract the medication. It did not matter that this injects the government into the exam room, or that the information is inaccurate, and potentially dangerous.

Public Education in the Crosshairs

After passing a bill in the 2020 Special Session to allow charter schools (the effort had failed in the regular session), lawmakers returned in 2021 with HB 2012 which expanded charter schools and altered oversight so severely it drew the criticism of several national pro-charter school organizations.

HB 2013, which creates the nation's largest and most open school ESA voucher program (called the Hope Scholarship), also passed quickly. Attempts to ensure state funds couldn't go to discriminatory institutions failed several times.

After years of failure, the Legislature passed HB 2009, a bill that makes it harder to use union fees for political activity, and SB 11, a bill making work stoppages by public employees illegal. The Legislature also considered a proposed Constitutional amendment to bring the Board of Education directly under the control of the Legislature, but it failed after the Senate did not bring it up for a vote.

2021 SESSION BY THE NUMBERS

2,352

Total bills introduced this session

463

Bills tracked by ACLU-WV

194

Bills opposed by ACLU-WV

47

Bills ACLU-WV actively lobbied against

30

Bills ACLU-WV helped defeat

237

Bills ACLU-WV supported

30

Bills ACLU-WV actively lobbied in favor

28

Bills ACLU-WV helped to pass



From banning trans athletes to promoting disinformation on abortion to mocking CDC guidelines on preventing the spread of COVID-19 infections, science denial was on full display at the 2021 legislative session. **Credit: West Virginia Legislature Facebook page**

Other Attacks

Like the years-long attacks on public education, lawmakers also spent several years attempting to create an Intermediate Court of Appeals. The effort succeeded this year (SB 275). ACLU-WV opposed it because it does not give the intermediate court jurisdiction over criminal appeals.

Lawmakers also pushed through a bill prohibiting organizations receiving state funding from participating in the boycott, divestment and sanctions movement against the state of Israel. While ACLU-WV takes no position on the movement itself, boycotting is a constitutionally protected form of speech. The state has no business telling us which boycotts we may and may not participate in.

There Were Bright Spots

Some modest criminal law reforms supported by ACLU-WV did pass this session.

Lawmakers passed HB 3078, expanding parole eligibility for some people, and HB 3304 which expanded the work release program. The Legislature also ap-

proved a bill to create minimum standards for officers (HB 2891), to provide autism training for police (SB 634), and to allow people to reopen convictions if the science relating to a conviction changes (HB 2888).

Unfortunately, the changes to criminal reform were not all good. Bills also passed that make parole hearings more political (HB 2747), and that undid some of the reforms made to pretrial detention in 2020 (HB 3106).

Another sign of the waning support for criminal reform were the bills taken up for consideration even if they failed to pass.

There was the criminal code rewrite increasing sentences for more than 200 offenses (HB 2017), the bill punishing defendants for having a gun and not using it (HB 485), and a bill charging a fee on top of bail (SB 663).

Another notable bill was HB 2257, which would have allowed up to 10 years of extended supervision for people convicted of drug crimes. Despite warnings the bill would unnecessarily keep people system-involved, that it was a fiscal time-bomb, and stirring testimony by Kenny Matthews from the WV Family of Convicted People, the bill passed the House of Delegates. Fortunately, the Senate did not take it up.



We also saw the impact when the public was involved in the process. Two bills stopped progressing shortly after significant opposition was shown at public hearings. HB 2174 would have made it harder to relocate, remove, or rename homages to the Confederacy, while it passed the House, it was never taken up in the Senate. SB 565 would have made multiple changes to elections, notably removing one of the most popular early voting days, ending automatic voter registration before it was ever implemented, and starting voter purges after missing just one election. Fortunately, this bill was never taken up after a public hearing.

The lack of access and transparency were defining features of the session. The impact public input can have was never more clear. And the danger of letting the Legislature operate unchecked has never been more obvious.

It Could've Been Worse

Consider the implications of the bills passed this session. They paint an ugly picture of a state intent on rolling back liberty.

Now consider what didn't pass, what could have passed.

There was a bill to expand "stand your ground laws" which disproportionately hurt people of color (SB 8). There was a bill to allow child welfare workers to deny services based on religious beliefs (SB 13).

There were bills to protect Confederate monuments (HB 2174), to prohibit diversity training and the teaching of critical race theory (HB 2595), and multiple bills to further restrict abortion.

There were bills proposed to roll back voting rights, to remove local nondiscrimination protections, and to expand criminal penalties.

Taken as a whole, the session could have been worse. Unfortunately, that's not cause for optimism. It likely will get worse.

Next year's session will take place before the 2022 midterms. It's likely legislators will try to fire up their base by passing even more bigoted legislation.

We anticipate attacks on LGBTQ+ rights, abortion, and voting rights. We may see attempts to erode the separation between church and state, or a backlash to the Black Lives Matters movement through protecting monuments to the Confederacy, limiting protest activity, or trying to deny the existence of systemic racism or implicit bias. We might see attacks on immigrants. We might see the state try to undo local protections put in place in response to state inaction.

Defenders of civil liberties may look at what happened in the past year in West Virginia in dismay. Or, we may look at it and realize how much legislation was stopped. Regardless, we all must remain vigilant and active.

It will be important for people to show up and engage. The Capitol will be open, which will provide more opportunity to speak with lawmakers.

But even before the Legislature convenes, people should reach out to their representatives and make sure they know this is the wrong direction for West Virginia. We must engage our neighbors, friends, and coworkers to stand up for the rights of ALL West Virginians. We must do so boldly and unapologetically.

ACLU VIEW: CONSTITUTIONAL AMENDMENTS

This session, the Legislature passed three proposed amendments to the West Virginia Constitution. This means the proposed amendments will be on the ballot for the November 2022 midterm elections.

Impeachment & the Courts:

This would clarify that courts have no role to play in impeachment proceedings. Impeachment is a political, not a legal, proceeding, and courts traditionally do not interfere in political matters.

However, as written, this could allow the Legislature unchecked impeachment powers — even if the Legislature overstepped its constitutional authority. For this reason, ACLU-WV opposes this amendment.

Incorporation of Houses of Worship:

West Virginia is the only state in the U.S. that doesn't allow houses of worship to incorporate, a largely administrative function that helps protect an entity from liability and other matters. West Virginia's prohibition on incorporation for houses of worship is a relic from a previous era. A similar prohibition was recently struck down in Virginia. West Virginia can proactively avoid similar litigation by approving this amendment. ACLU-WV supports this amendment.

Inventory Tax Changes:

This would allow the Legislature or local political subdivisions to reduce or exempt certain property from the inventory tax. ACLU-WV takes no position on this proposed amendment.



LEGISLATIVE REPORT CARDS

Every year, we assign a letter grade to every state lawmaker in West Virginia. These grades reflect floor votes legislators made on key ACLU issues. The grades are curved to demonstrate the distribution of votes more accurately. Only bills that made it to the floor for passage were graded. The grades reflect a legislator's overall commitment to ACLU values, and not any specific issue area.

No grade is a complete reflection of a legislator's values. The grades cannot consider attempts the legislator might have made to make a piece of legislation more or less friendly, action taken in committees, nor votes made for purely political reasons.

Methodology: 19 bills were graded in the House and the Senate. A raw percentage was calculated for each legislator based on whether they voted for or against the ACLU position. Absent votes were not counted. For each chamber the average raw score and standard deviation was calculated. Every grade range represents one-third of a standard deviation with the average set as the midpoint of the C-range. Consequently a D is one standard deviation below the average, a B is one standard deviation above the average, and an A is two standard deviations above the average.

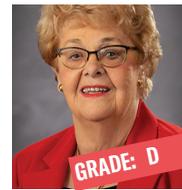
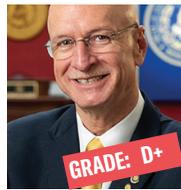
House

HB 2003 (Emergency powers)
HB 2009 (Limiting organized labor)
HB 2013 (Directing public funds to private schools that discriminate)
HB 2017 (Rewriting the criminal code)
HB 2094 (Juvenile restorative justice programs)
HB 2174 (Protecting Confederate monuments)
HB 2257 (Extending supervision for certain drug offenders)
HB 2266 (Expanding certain insurance coverage for pregnant people)
HB 2891 (Creating minimum standards for law enforcement)
HB 2933 (Prohibiting certain types of boycotts)
HB 2982 (Abortion disinformation)
HB 3078 (Allowing people in parole to complete certain classes)
HB 3293 (Transgender student athlete ban)
HB 3304 (Establishing Re-entry and Transitional Housing Program)
HB 3307 (Civil liabilities for social media platforms regulating content)
HCR 9 (Urging a constitutional convention to limit Congressional terms)
SB 334 (Ending most harm reduction programs)
SB 387 (Requiring drug screening of applicants for cash assistance)
SJR 4 (Allowing for incorporation of houses of worship)

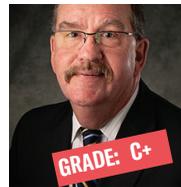
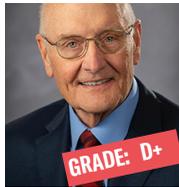
Senate

HB 2003 (Emergency powers)
HB 2009 (Limiting organized labor)
HB 2013 (Directing public funds to private schools that discriminate)
HB 2094 (Juvenile restorative justice programs)
HCR 9 (Calling a constitutional convention to limit Congressional terms)
SB 334 (Ending most harm reduction programs)
SB 387 (Requiring drug screening of applicants for cash assistance)
SB 485 (Relating to use or presentation of firearm during commission of felony)
SB 509 (Removing requirement that determination of medical stability be found prior to admission to mental health facility)
SB 565 (Changes to voting)
SJR 4 (Allowing for incorporation of houses of worship)
SJR 10 (Limiting terms for the House of Delegates Amendment)
HB 2266 (Expanding certain insurance coverages for pregnant people)
HB 2891 (Creating minimum standards for law-enforcement)
HB 2933 (Prohibiting certain types of boycotts)
HB 2982 (Abortion disinformation)
3078 (Allowing people on parole to complete certain classes)
HB 3293 (Transgender student athlete ban)
HB 3304 (Establishing Re-entry and Transitional Housing Program)

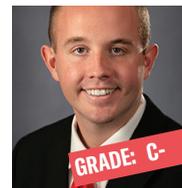
WEST VIRGINIA SENATE



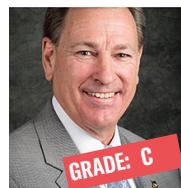
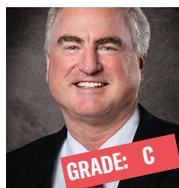
Mike Azinger (R-Wood)
 Stephen Baldwin (D-Greenbrier)
 Robert D. Beach (D-Monongalia)
 Craig Blair (R-Berkeley)
 Donna J. Boley (R-Pleasants)



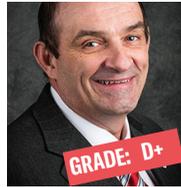
Mike Caputo (D-Marion)
 Charles H. Clements (R-Wetzel)
 Amy Grady (R-Mason)
 Bill Hamilton (R-Upshur)
 William Ihlenfeld (D-Ohio)



Glenn Jeffries (D-Putnam)
 Robert Karnes (R-Randolph)
 Richard Lindsay (D-Kanawha)
 Mike Maroney (R-Marshall)
 Patrick Martin (R-Lewis)



Mark R. Maynard (R-Wayne)
 Eric Nelson (R-Kanawha)
 Rupie Phillips (R-Boone)
 Robert H. Plymale (D-Wayne)
 Rollan Roberts (R-Raleigh)



Mike Romano (D-Harrison)
 Patricia Rucker (R-Jefferson)
 Randy Smith (R-Tucker)
 Ron Stollings (D-Boone)
 David Stover (R-Wyoming)

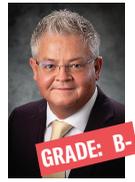


Chandler Swope (R-Mercer)
 Dave Sypolt (R-Preston)
 Tom Takubo (R-Kanawha)
 Eric Tarr (R-Putnam)
 Charles S. Trump (R-Morgan)

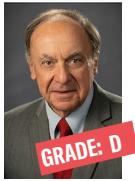


John R. Unger (D-Berkeley)
 Ryan Weld (R-Brooke)
 Mike Woelfel (D-Cabell)
 Jack Woodrum (R-Summers)

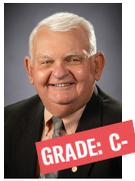
HOUSE OF DELEGATES



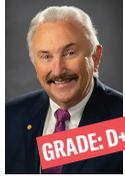
Bill Anderson (R-Wood)
 Jim Barach (D-Kanawha)
 Trenton Barnhart (R-Pleasants)
 Jason Barrett (D-Berkeley)
 Mick Bates (D-Raleigh)



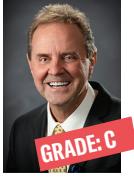
Brent Boggs (D-Braxton)
 Josh Booth (R-Wayne)
 Jordan Bridges (R-Logan)
 Nathan Brown (D-Mingo)
 Barry Bruce (R-Greenbrier)



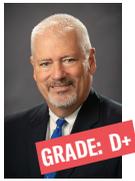
Adam Burkhammer (R-Lewis)
 Moore Capito (R-Kanawha)
 Wayne Clark (R-Jefferson)
 Roger Conley (R-Wood)
 Roy Cooper (R-Summers)



Vernon Criss (R-Wood)
 Mark Dean (R-Mingo)
 Phillip Diserio (D-Brooke)
 John Doyle (D-Jefferson)
 Joe Ellington (R-Mercer)



Paul Espinosa (R-Jefferson)
 Ed Evans (D-McDowell)
 Tom Fast (R-Fayette)
 Dana Ferrell (R-Kanawha)
 Barbara Evans Fleischauer (D-Monongalia)



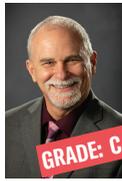
Shawn Fluharty (D-Ohio)
 Don Forsht (R-Berkeley)
 Geoff Foster (R-Putnam)
 Joey Garcia (D-Marion)
 Marty Gearheart (R-Mercer)



Dianna Graves (R-Putnam)
 Ric Griffith (D-Wayne)
 Danny Hamrick (R-Harrison)
 Caleb Hanna (R-Nicholas)
 Evan Hansen (D-Monongalia)



Roger Hanshaw (R-Clay)
 John Hardy (R-Berkeley)
 Austin Haynes (R-Fayette)
 Joshua Higgenbotham (R-Putnam)
 Josh Holstein (R-Boone)



Sean Hornbuckle (D-Cabell)
 Chuck Horst (R-Berkeley)
 John Paul Hott (R-Grant)
 Eric L. Householder (R-Berkeley)
 Gary G. Howell (R-Mineral)



Dean Jeffries (R-Kanawha)
 Joe Jeffries (R-Putnam)
 D. Rolland Jennings (R-Preston)
 Riley Keaton (R-Jackson)
 John R. Kelly (R-Tyler)

HOUSE OF DELEGATES



David Kelly (R-Doddridge)
Kayla Kessinger (R-Fayette)
Laura Kimble (R-Harrison)
Shannon Kimes (R-Wood)
David Linville (R-Cabell)



Todd Longanacre (R-Greenbrier)
Chad Lovejoy (D-Cabell)
Phil Mallow (R-Marion)
John Mandt Jr. (R-Cabell)
Carl Martin (R-Upshur)



Zack Maynard (R-Lincoln)
Margitta Mazzocchi (R-Logan)
Pat McGeehan (R-Hancock)
George Miller (R-Morgan)
Ty Nestor (R-Pocahontas)



Larry Pack (R-Kanawha)
Jeffrey Pack (R-Raleigh)
Tony Paynter (R-Wyoming)
Dave Pethtel (D-Wetzel)
Chris Phillips (R-Barbour)



Jonathan Pinson (R-Jackson)
Chris Pritt (R-Kanawha)
Mike Pushkin (D-Kanawha)
Ben Queen (R-Harrison)
Ken Reed (R-Morgan)



Charlie Reynolds (R-Marshall)
Clay Riley (R-Harrison)
Matthew Rohrbach (R-Cabell)
Ruth Rowan (R-Hampshire)
Larry L. Rowe (D-Kanawha)



Doug Skaff (D-Kanawha)
Doug Smith (R-Mercer)
Joe Statler (R-Monongalia)
Brandon Steele (R-Raleigh)
Erikka Storch (R-Ohio)



Amy Summers (R-Taylor)
Terri Sypolt (R-Preston)
Cody Thompson (D-Randolph)
Christopher W. Toney (R-Raleigh)
Heather Tully (R-Nicholas)



Danielle Walker (D-Monongalia)
Johnnie Wamsley (R-Mason)
Bryan Ward (R-Hardy)
Guy Ward (R-Marion)
Steve Westfall (R-Jackson)



John Williams (D-Monongalia)
Evan Worrell (R-Cabell)
Kayla Young (D-Kanawha)
Mark Zatezalo (R-Hancock)
Lisa Zukoff (D-Marshall)

Democracy limps forward

by Billy Wolfe

From the COVID-19 pandemic to the loser of the election declaring a legitimate democratic process a sham, the 2020 election was marked by chaos.

Because of the pandemic, officials allowed all West Virginia voters to use absentee ballots, a move which helped lead to the state's second-highest turnout in history.

Although the election saw many opponents of civil liberties swept into office, it was still a resounding success in terms of increased participation and security, ACLU-WV Voting Rights Project Manager Dijon Stokes said.

"It's a shame election officials and lawmakers refuse to build on the success of the 2020 Election," he said. "They could take the procedures that made the election so successful and make them permanent, but instead they want to revert to the ways of the past."

ACLU-WV got to work early in 2020 advocating against any efforts to cancel or postpone elections, and in favor of making voting easier to access and more compliant with social distancing guidelines. We wrote letters, gave interviews, and reached out directly to policymakers to help ensure everyone would still be able to vote, despite the pandemic.

Election officials listened to our calls, at least at first.

The Secretary of State's Office not only allowed everyone to vote absentee in the primary election, it also worked with county clerks' offices across the state to send absentee applications to every registered voter's home. Officials also engaged in widespread education efforts about the new procedures.

ACLU-WV did our part to educate voters as well. With our partners at Vote Together West Virginia — a coalition of nonprofit organizations — we contacted thousands of West Virginians to help them put together a plan to vote and complete the U.S. Census.

Volunteers gathered on Zoom to receive training and recreate the experience of an in-person phonebank. To lighten the mood, we held funny hat contests, dance breaks, and other opportunities for volunteers to get to know each other better. This effort resulted in more than 7,500 calls and more than 68,000 text conversations.

In the general election, despite ACLU-WV's opposition, officials switched course and said they would no longer send everyone an application by mail. Voters would now have to go online or to their county clerk's office to apply for an absentee ballot. Changing the process led to confusion for many people who were waiting for an application to arrive by mail as they had in the primary.



Brendan Beale | Unsplash

Voting While Incarcerated

Although West Virginia wrongly bars people from voting while serving sentences for felony charges, it does allow people in jail for misdemeanors and those awaiting trial for any crime to vote. Anyone who has completed a felony sentence, including any probation or parole, may also vote here.

The problem? Many people don't know this and assume they cannot vote while in jail. Others wrongly believe a felony conviction means the right to vote is lost forever.

Greg Whittington, ACLU-WV Criminal Law Reform Director, said it's no accident so many incarcerated and formerly incarcerated West Virginians don't understand their rights as voters.

"It's by design," he said. "When I was sentenced to state prison, I received a letter in the mail informing me I lost my right to vote. No one informed me when I completed parole that my rights had been restored and all I needed to do was re-register."

ACLU-WV embarked on an ambitious mission of informing as many justice-impacted people as possible of their

“The president’s frivolous lawsuits will not change the outcome of the election. Unlike a caps-lock tweet, you need evidence to prove claims raised in court.”

-ACLU-WV editorial, Gazette-Mail, Nov. 23, 2020



ACLU-WV Voting Rights Project Manager Dijon Stokes speaks at a voter registration event.

Credit: Karen Williams | Poor People’s Campaign

rights.

We organized voter education and registration drives in all of the state’s ten regional jails. Then, our staff and volunteers fanned out across the state to collect and mail registration forms for every incarcerated person who completed one.

We resumed phonebanking as well, but this time we were reaching out to formerly incarcerated West Virginians to discuss voting.

Along with Vote Together West Virginia and the West Virginia Family of Convicted People, we reached more than 14,000 people.

“We spoke to so many who had no idea they had regained the right to vote,” Community Outreach Director Mollie Kennedy said. “It was such a rewarding experience to speak with them and help them navigate the registration process.”

Election Protection Hotline

With students at the West Virginia University School of Law, we created an Election Protection Hotline for voters who had questions or encountered problems at the polls.

On Election Day, we received numerous calls regarding a scenario we hadn’t expected: people recently hospitalized with COVID-19 who were having trouble getting emergency absentee ballots.

In these cases, it wasn’t that county clerks were refusing the ballots, but that hospitals were not allowing poll workers into quarantined sections. We were able to work with hospital administrators to arrange for staff to transport ballots between the poll workers and patients.

Post-Election Chaos

Although national election results were not clear on Election Day because of the sheer volume of absentee ballots, the race began to look more certain in the days that followed. By the end of the week, the Associated Press had called the election for Joe Biden.

Unsurprisingly, the incumbent president refused to concede and claimed the election was rigged against him.

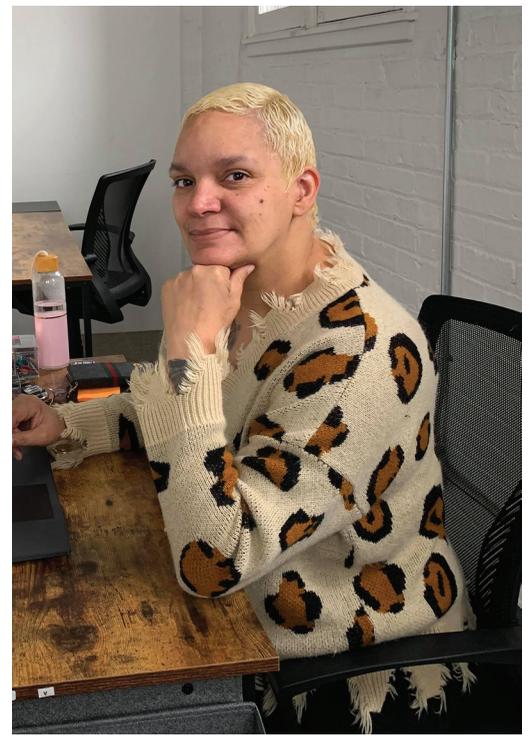
We wrote op-eds, issued mass emails to our supporters, and took to social media to call for calm and for every vote to be counted. Voters, not politicians, decide elections in our country and that was not going to change.

When thousands of the president’s supporters attacked the U.S. Capitol in an attempt to stop the certification of the election, killing police and threatening to hang the vice president and others, we denounced the attack and again called for a peaceful transition.

“It was slow and excruciating, but our democracy persisted, perhaps limped, to the finish line,” ACLU-WV Director Joseph Cohen said. “Trumpism had been defeated but its characteristic divisiveness and mean-spiritedness lives on in West Virginia’s politics. As we have done throughout our history, ACLU-WV will continue to pour our hearts and souls into ensuring the promise of America withstands this latest anti-democratic fad and our elections continue to have integrity.”

ALL IN THE FAMILY

by Billy Wolfe



Through a new organization called the WV Family of Convicted People, Inc., formerly incarcerated people and their loved ones are standing up, speaking out, and envisioning a state without mass incarceration.



From left, Greg Whittington, Lori Whittington, Crystal Allen, Deb Ujevich, Kenny Matthews and Joanna Vance are just some of the faces making up the WV Family of Convicted People, Inc.

photos by **Billy Wolfe**

ORGANIZING FOR A FUTURE BEYOND BARS

Greg Whittington will never forget Jan. 21, 2010. At 10:54 a.m. that day, he walked out of state prison a free man.

His brothers picked him up in a 2010 Toyota truck loaded with technology he didn't understand. He mostly listened as they talked about family members, several names he had never heard because they were born during his incarceration. Few had visited or even called during his nearly 15-year sentence. The warden had told him to "go be normal," but the problem was he didn't know what normal was anymore.

"I remember looking in the rearview, watching a place where I mattered disappear, and knowing I was headed into a world where I didn't matter at all," he said.

Many are broken by prison. The trauma inflicted by our brutal system of mass incarceration often leads to people re-offending and becoming more hardened rather than rehabilitated.

But Greg was able to turn his life around — despite the odds stacked against him. He entered prison at a third-grade reading level, but two other prisoners taught him how to read by talking to him through a small hole in the wall separating their solitary confinement cells. He later became the first West Virginia prisoner to earn a college degree while incarcerated.

"I had felt stupid all my life," he said. "I learned the power of education and the power of the human mind, that you can escape some of the worst things in the world with a good book."

"We send people back to those who don't know them and don't want to know them, and we wonder why they don't make it."

**- Greg Whittington,
WV Family of Convicted
People, Inc. president**



Kenny Matthews and Greg Whittington grab a photo with Delegate Danielle Walker after Matthews delivered powerful testimony helping to defeat a punitive bill.

But outside of prison, the world didn't care about the progress he had made.

"Inside, I was the best of the best the DOCR (Division of Corrections and Rehabilitation) had to offer, but out here everyone was speaking a language I didn't understand," he said. "We send people back to those who don't know them and don't want to know them, and we wonder why they don't make it."

But Greg, who joined ACLU-WV in 2020 as the criminal law reform director, did make it by repairing old relationships and forming new ones. Now he wants to ensure others make it, too.

There are tens of thousands of formerly incarcerated people living in West Virginia. Many of these people don't know if they can vote or run for office (many can). For this and so many other reasons, they remain marginalized.

But with support of a new organization backed by ACLU-WV, formerly incarcerated people are coming together to organize for the first time for a future free of mass incarceration. The WV Family of Convicted People, Inc. (the Family) is already making waves.

"We have to get our people together and make the powers-that-be realize we are to be taken seriously," Greg said. "We are a voting bloc. That's why our motto is 'Nothing about us, without us.'"

Along with staff members Crystal Allen and Deb Ujevich, and volunteers like Kenny Matthews and Lori Whittington, the Family has laid out an ambitious agenda for its first few years.

The Family hit the ground running in 2020, quickly establishing "cohorts" of volunteers in every corner of the state, working with ACLU-WV to conduct more than 25 voter registration drives in recovery homes, successfully advocated for the releases of hundreds during the height of COVID-19, and helped ACLU-WV reach more than 14,000 formerly incarcerated voters via phone calls and text messages ahead of the election, to name a few accomplishments.

On any given day, the Family is in touch with dozens of people whose lives have been turned upside down by the criminal legal system. About 25 people total are actively working with the organization in either paid or volunteer capacities.

The Family is also in the process of establishing a community media center where justice-impacted people will be able to learn skills like interviewing, video production, and more.

"Storytelling for us is so important," Greg said. "It's the only way we can counter the narratives and false impressions about our people. People who have been incarcerated are just like anyone else, except they have been denied opportunities and second chances, either because of systemic racism or their socio-economic background."

Greg has much to be proud of in the Family's first year of operations, but said he is most impressed by volunteer Kenny Matthews, who delivered powerful testimony that ultimately helped defeat a bill that would have extended supervision for certain drug offenses.

As the organization grows, thanks in part to funding provided by ACLU National, the Chan-Zuckerberg Initiative, Greater Kanawha Valley Foundation, and ACLU-WV, Greg hopes to intercept as many people as possible upon their release.

That way, they'll be able to take their eyes off the rearview and point them instead toward a more just future.



INCARCERATION AND VOTING

✓ People incarcerated on a misdemeanor charge in WV may vote while in jail.

✓ People awaiting trial in jail for a misdemeanor **OR** a felony charge may vote.

✗ Those serving a sentence or on parole for a felony charge may **NOT** vote in WV elections.

✓ However, convicted felons may re-register to vote after they have completed parole.

DIJON'S DRIVE FOR CHANGE

by Billy Wolfe



Dijon Stokes knows firsthand

how traumatizing our system of mass incarceration can be.

He was just a kid growing up in Dunbar when his father was falsely accused of a crime. Eventually he would be exonerated of those charges but not before spending nearly two years behind bars simply because he couldn't afford bail.

It's an all-too-common story in West Virginia, particularly for Black West Virginians caught up in a racist system designed to oppress rather than rehabilitate. As a result, Dijon, whose mother died from leukemia when he was five, was raised mostly by his grandmother.

His dad was like a different person after his release. During one visit, he left 13-year-old Dijon alone outside a bar for several hours.

"My grandmother stopped letting me see him alone after that," he said.

Today, his dad lives in California and is unhoused. Dijon said it's often a struggle to get in touch with him because he doesn't have regular access to a phone.

"It all had an effect on him," Dijon said of his dad's time in jail. "He wasn't the same person afterwards because the experience severely triggered his bipolar disorder."

Dijon joined the staff at ACLU-WV as the Voting Rights Project Manager in 2020 after interning with the affiliate in 2017 and 2019. He's now a Howard University graduate with dual majors in political science and economics, and plans to attend law school in the near future.

Dijon advocates passionately for West Virginians to have greater access to the ballot, including an ACLU bill to make no-excuse absentee voting an option for all voters going forward. The state permitted absentee voting in the 2020 election because of the COVID-19 pandemic, citing the emergency rule of medical reasoning.

"All of our state's election officials, from county clerks to the Secretary of State's Office, seem to be in agreement that the election in West Virginia was a huge success in terms of security and

our historic turnout," Dijon said. "It only makes sense that we permanently adopt the voting procedures which made that election so successful."

Dijon knew from an early age he wanted to get involved with civil rights. A friend introduced him to ACLU-WV Executive Director Joseph Cohen, who said he knew immediately the affiliate would be a great fit for Dijon.

"Dijon first interned with us after his freshman year at Howard. I've worked with a lot of college students through the years, and Dijon was as committed and hardworking as any young person I'd ever encountered," Cohen said. "And he was a sponge, just incredibly eager and grateful to soak in as much knowledge and as many experiences as possible."

Dijon was also recently highlighted by Black by God THE WEST VIRGINIAN in its "Class of 2021: Young, Gifted, and Black In West Virginia Policy."

After the legislative session, he transitioned into a new role that focuses on his other passion: criminal justice reform.

"Our system is designed to break people down and heap punishment after punishment on them," he said. "We have to fundamentally reimagine the system. I'm encouraged by some recent reforms, but we have years of work ahead of us."

It's deeply personal work for someone who has lived with the consequences of a system obsessed with punishment and revenge over rehabilitation and redemption.

"What brought me to this line of work was seeing how my community was disproportionately affected by inconsiderate and dangerous policies. Seeing two of my family members devoured and spit out by the criminal justice system — my uncle made a second-class citizen and my father mentally broken when his only crime was being impoverished — made me want to strive for something different," Dijon said. "We know the problem and solution to this scourge of poverty and minority driven incarceration, we just have to drive our policy-makers to see it in the same light."

Through this challenging year, we have continued to find ways to connect with our supporters and work toward a better West Virginia for all. Despite the pandemic, ACLU-WV was able to host dozens events through Zoom, Facebook live, and other digital means.



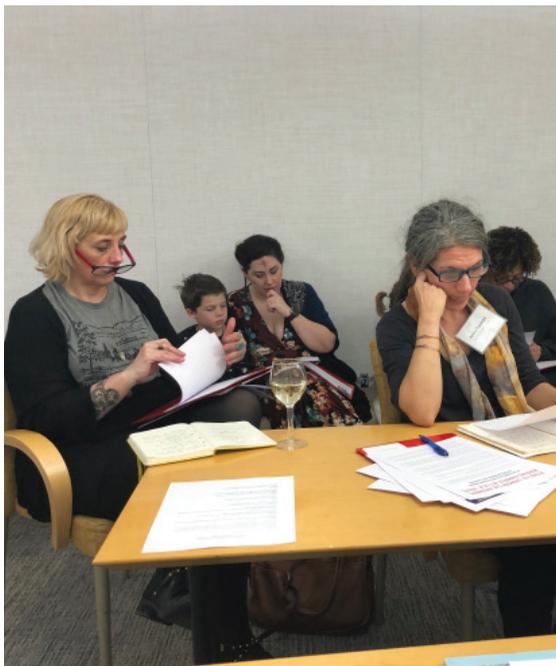
Rose Winland speaks during a rally against the trans athlete ban. Credit: Billy Wolfe

Rallies, Protests, and Demonstrations

In an already challenging year, the nation faced another reckoning with systemic racism following the murders of Ahmaud Arbery, Breonna Taylor, and George Floyd.

Despite COVID-19 limitations, West Virginians found ways to take to the street as safely as possible to protest systemic racism and police brutality.

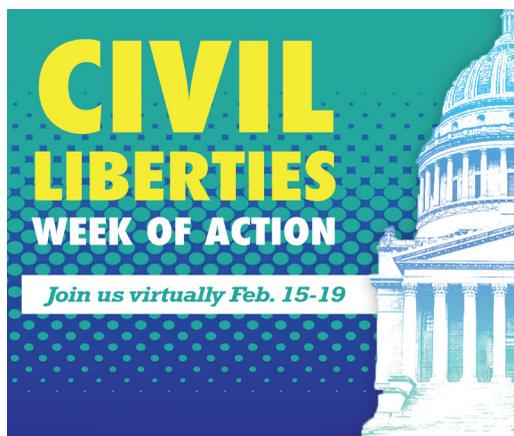
Dissent is patriotic. We look forward to more in-person actions as restrictions on gatherings are lifted.



Fairness for all pregnant workers

Prior to the pandemic, we traveled to Washington, D.C. with a small group of ACLU-WV volunteers to meet activists, advocates, policy experts, and others from across the country for a Pregnant Workers Fairness Act Lobby Day. Thanks to the efforts of so many, West Virginia's entire Congressional delegation voted to pass PWFA. This hard-working crew has continued to gather and brainstorm ways to ensure it passes the Senate as well.

Jamie Miller and Anne Farmer prepare for meetings with congressional staff members about the Pregnant Workers Fairness Act.

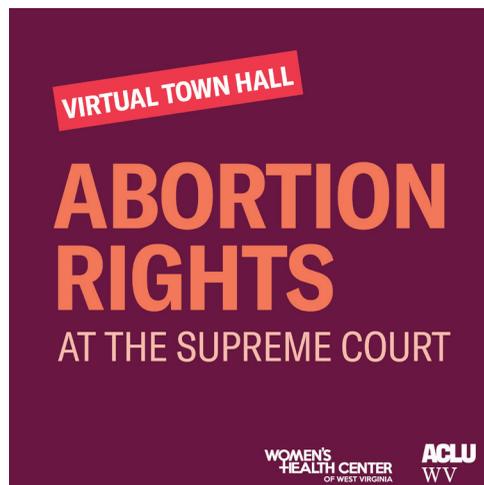


While we couldn't gather for our annual All Kinds Welcome Here Civil Liberties Lobby Day this year, we were able to partner with groups to create the West Virginia Civil Liberties Week of Action during the 2021 Legislative Session.

The week of action focused on a variety of issues including LGBTQ+ justice, reproductive justice and equity and access in healthcare, racial justice and immigrant rights, democracy protection and voting rights, and environmental justice. The event kicked off with a virtual rally full of incredible speakers and helped elevate important calls to action at the Legislature throughout the week.

Digital Town Halls

Our first Digital Town Hall at the beginning of the COVID-19 pandemic was a success in terms of ideas shared, turnout, and more. So, we have continued to use this platform to share vital information about civil liberties issues. Over the past year, we have held these Zoom town halls to bring news and information about Supreme Court decisions, election information and implications, and more.





Social Justice Date Night

by Rose Winland

On Friday, Oct. 23, friends of ACLU-WV gathered for a unique, fun, and COVID- safe date night as we screened “The Fight” at our one-night-only ACLU-WV drive-in theatre at BridgeValley Community and Technical College, South Charleston campus.

Many attendees would have otherwise supported our Bill of Rights Bash, but for everyone’s safety, we decided not to host our signature fundraising event in 2020. While we are bringing back the Bill of Rights Bash in November 2021, our Social Justice Date Night was so successful we are planning another drive-in viewing event in Morgantown, a 2021 date and time still to be determined.

“The Fight” is an award-winning documentary

that followed four ACLU legal teams as they fought to uphold and protect civil liberties during the Trump administration. We want to thank our sponsors: Hamilton, Burgess, Young & Pollard, PLLC; Hissam Forman Donovan Ritchie, PLLC; Naomi Cohen; Women’s Health Center of WV; Bob and Ruth Baker; Rachel Dash; Fairness WV; WV Center for Budget & Policy; WVFREE; Planned Parenthood South Atlantic; Rainbow Pride; WV Citizens for Clean Elections; Content + Engagement Group; and the following candidates for office: Amanda Estep Burton, Jeanette Rowsey, Danielle Walker, Cathy Kunkel, and Nikki Ardman.

Equal Justice Initiative Work



While attending a conference in Montgomery, Alabama in late 2019, ACLU-WV staff got to visit the Peace and Justice Lynching Memorial and Equal Justice Initiative Museum. West Virginia has been identified by the Equal Justice Initiative as one of the worst perpetrators of racial terror

lynchings outside the Deep South.

The staff has been committed to bringing elements of EJI’s important work back to the people of West Virginia through public education and community work.

While the COVID-19 pandemic has changed our plans and timelines, we were thrilled to hold our first EJI-inspired event in September 2020 in partnership and collaboration with American Friends Service Committee, Call to Action for Racial Equality, WV NAACP and the Morgantown/Kingwood NAACP branch, Showing Up for Racial Justice WV, and WV National Organization for Women.

Participants watched Bryan Stevenson’s film, ‘True Justice: Bryan Stevenson’s Fight for Equality’ and joined us for a virtual panel discussion. Speakers included WV Attorney Kitty Dooley, event moderator; James Boyd, peer recovery support specialist; Owens Brown, WV NAACP President; Dr. David Trowbridge, Marshall University Director of African and African-American Studies; and Nora Venezky, Executive Director of the Greenbrier Historical Society. Martec Washington provided American Sign Language interpretation.

This collaborative project will continue as we explore how to bring this work to communities across the state.



**A thank you
to all our
supporters who
spoke out for
the First
Amendment and
changed minds on
Charleston City
Council.**

ACLU-WV supporters showed they are a force to be reckoned with when they flooded Charleston City Hall with phone calls and emails over a proposed ordinance that would have significantly limited free speech activities.

The bill would have prohibited anyone from congregating near “inherently dangerous” intersections in West Virginia’s capital city. The plan was little more than a thinly veiled attempt to further criminalize poverty and panhandling, but it would have also restricted politician honk-and-waves, union pickets, student-led fundraisers, protests, and other activities protected by the First Amendment.

ACLU-WV Legal Director Loree Stark first wrote to city officials to explain the constitutional concerns with the bill.

“That these areas may experience heavier traffic underscores precisely why the sidewalks and public areas that fall within the scope of this proposed

ordinance are valuable forums within which individuals must be free to engage in protected speech,” Stark wrote in the letter.

Despite the warnings, two city council committees advanced the bill to the full council. It appeared our concerns would be ignored and the bill was sure to pass.

ACLU-WV then issued a call to our supporters to contact council members about the bill’s negative ramifications. Hundreds of people responded to our call, and the bill was defeated 18-9. Several council members specifically cited calls from their constituents in casting their no votes.

“We are thankful to the council members who opposed this bill and to all of the Charleston residents who voiced their concerns about it,” Stark said. “It’s always encouraging to see elected officials heed the concerns of their constituents and be willing to change their minds when people’s constitutional rights are at stake.”

ACLU-WV

BILL OF RIGHTS BASH!

NOV. 13 | BENI KEDEM TEMPLE, CHARLESTON

Join us as we honor:

Delegate Danielle Walker — Roger Baldwin Award

Ibtesam Barazi and Rabbi Victor Urecki — Sid Bell Memorial Award

WV Family of Convicted People, Inc. — Statewide Advocacy Award

A RECKONING FOR WEST VIRGINIA'S RACIST MONUMENTS

by **Billy Wolfe**

As many former Confederate states have reconsidered monuments to their treasonous, slaveholding past, West Virginia – a state formed in 1863 for the explicit purpose of siding with the Union – has ironically lagged behind.

It's true 2020 did see some of West Virginia's racist monuments removed and at least one pro-equality marker put in place. The Kanawha County Board of Education voted unanimously in July to remove the name of the slaveholding traitor Stonewall Jackson from its most racially diverse middle school. Without fanfare, the city of Charleston took down a plaque in June honoring the "Kanawha Riflemen," a Confederate militia group whose members collectively held some 200 enslaved people. Charleston also finally voted to add the honorary name of the Rev. Martin Luther King Jr. to a prominent downtown street.

Unfortunately, these positive strides have resulted in backlash, with state lawmakers proposing a bill to prohibit removal of Confederate monuments without a complicated bureaucratic process.

Just like in other parts of the country, monuments were erected throughout West Virginia in the early 20th Century as part of a history-revising campaign by organizations like the Daughters of the Confederacy. There are 21 Confederate statues, memorials and other markers on public lands in West Virginia, according to the Southern Poverty Law Center. ACLU-WV supports their removal.





Despite numerous calls for its removal, state officials continue to dodge responsibility for the statue of slaveholding Confederate General Thomas Stonewall Jackson on the state Capitol grounds. **Credit: Billy Wolfe**



Above, the city of Charleston unceremoniously removed a plaque honoring the Kanawha Riflemen. Left: Only outlines remain after the former Stonewall Jackson Middle School was renamed West Side Middle School. **Credit: Billy Wolfe**

“Our opponents on this issue will sometimes try to frame it as an attempt to preserve history, but that couldn’t be further from reality,” Advocacy Director Eli Baumwell said. “Naming things after people, and building monuments and memorials to them is how you honor history, not preserve it. And we should not be honoring the legacy of slaveholders, racists, and traitors.”

Arguably the most prominent of these monuments is the bronze statue of Stonewall Jackson, which stands on the southeast corner of the West Virginia state Capitol lawn. Despite numerous calls for its removal, Gov. Jim Justice has refused to act. Randall Reid-Smith, the governor’s appointed chairman of the Capitol Building Commission, has also ducked his legal authority to have the statue moved to the state Cultural Center museum.

In June, ACLU-WV helped organize a coalition of 35 organizations to make an official request that Reid-Smith take the statue down. In response, the House of Delegates passed House Bill 2174, which would have made it harder to remove or rename monuments, streets, and other memorials to the Confederacy.

ACLU-WV advocated forcefully against the bill, organizing calls to action and rallying our supporters against it. Fortunately, the Senate did not take up the bill.

With the bill defeated, Baumwell said ACLU-WV will continue its advocacy for the statue and others like it to be removed.



OUR FAMILIES BELONG TOGETHER

by Billy Wolfe

In January, ACLU-WV was proud to help unveil Charleston's newest piece of public art celebrating immigrant families and their many contributions to West Virginia.

The mural, which is located on the western side of the old Blossom Diner building on Hale Street, is composed of 192 individual tiles. Each tile was created by a different Charleston community member and shares a message from its artist about immigration and inclusivity. The collective color scheme of the tiles form a backdrop of mountains.

Some tiles uplift the message of the Black Lives Matter movement. Some carry messages in languages other than English. One tile is dedicated to the memory of the late Supreme Court Justice Ruth Bader Ginsburg. In the foreground, muralist Keith Wilde depicted members of contemporary immigrant communities alongside a traditional West Virginia coal mining family.

A message across the top states "Our Families Belong Together."

Project partners include the University of Charleston, the West Virginia Interfaith Refugee Ministry, the city of Charleston, and the Islamic Association of West Virginia.

Through UC's annual Labor of Love initiative, all undergraduate students participate in community service work over the Labor Day weekend. Wilde, who designed the mural, said he wanted to create a project for the initiative that would enable UC students to participate while also adhering to social distancing guidelines. The project took on more meaning for him as the theme was developed.

"As a muralist, I am always trying to create imagery that is successful in visual terms but this piece also has something very important to say," Wilde said. "That was very exciting and rewarding for me."

Ibtesam Barazi, WVIRM president and ACLU-WV board member, said it was empowering to her as a Mus-

Families Belong



lim to see a prominent public art featuring women in hijabs, one of whom is holding a doctor's stethoscope. Barazi, who has lived in West Virginia for more than four decades, painted a tile for the piece with the expression "Subhanallah" in Arabic.

"To a Muslim, when we see a beautiful, wondrous creation, we thank the Lord for its magnificence by saying this," she said, adding that the mural is a beautiful representation of how people from different backgrounds can work together for the good of the whole community. "It truly touches my heart," she said.

Jackie Lozano, ACLU-WV Immigrants' Rights Campaign Coordinator, said she got the idea for a mural after seeing Charleston's "Love for All" mural celebrating the LGBTQ+ community. She approached City of Charleston Public Art Director Jeff Pierson to ask if ACLU-WV could commission a mural dedicated to immigrants. It just so happened that UC had a similar idea already, and a collaboration was born.

Jackie's work is deeply personal. As a teenager, she discovered she was brought to the United States at two years old without documentation.

"Even though I am currently protected from deportation by DACA as of now, many times during the Trump administration my life was turned upside down. The sad truth is that oftentimes I have to imagine being separated from my family and friends, even saying goodbye to my little boy," she said. "This is my reality, and people like me depend on our officials and communities to stand up and fight for us to keep our families together.

"With Trump no longer in power there is a renewed, but cautious, sense of hope in my heart," she continued. "But here in West Virginia, we start small within our communities. This mural is a prime example as to what we can achieve when we welcome one another, no matter where we come from, who we believe in, or who we love."



ACLU-WV Executive Director Joseph Cohen and son Ellis collaborate on a tile for the mural. Right: ACLU-WV board member Ibtisam Barazi creates a tile carrying a message in Arabic. Credit: Jackie Lozano



CROWNING ACHIEVEMENTS

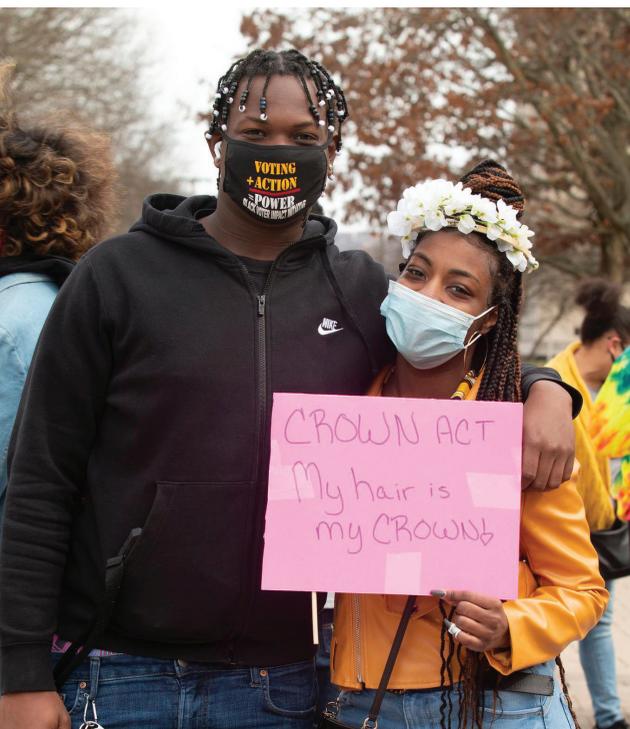
The 2020 and 2021 legislative sessions both saw the failure of an effort to protect natural Black hairstyles and textures under the law, but the Crown Act has started a conversation leading to change on the local level.

In April, Morgantown became the first West Virginia city to adopt the Crown Act, which stands for “Create a Respectful and Open World for Natural Hair.” Not long after, Charleston began the process of introducing a bill to do the same. Beckley City Council unanimously passed an ordinance in May.

Hair discrimination as a form of racial discrimination predates the United States. In the 1700s, Creole women in Louisiana were forced by law to cover their hair with tignons. Today, more than 80 percent of Black women say they have felt the need to change their hair in order to fit in at work.

Policing of hair occurs frequently in schools, sports and workplaces, and it’s past time West Virginia law protected people from this form of discrimination.

Below: ACLU-WV spring interns Jomo Smith Jr. and India Frith attend a rally in Charleston for the Crown Act. Credit: Billy Wolfe



WHEELING’S WAR ON THE HOUSELESS COMMUNITY

In September, ACLU-WV learned the city of Wheeling was planning to demolish a tent encampment and displace the 30 community members who lived there. The city gave just 72 hours notice and refused to provide any help to residents with storing what few belongings they had.

ACLU-WV had already put Wheeling on notice and warned of possible litigation after the city bulldozed a different tent encampment in April. At the time, the state was still under a shelter-in-place order due to the COVID-19 pandemic.

The U.S. Centers for Disease Control and Prevention (CDC) specifically advises cities not to destroy encampments during a viral pandemic unless individual housing units are made available. The recommendations state: “Clearing encampments



Protesters gather in support of residents of a tent encampment outside the federal courthouse in Wheeling.
Credit: Loree Stark

can cause people to disperse throughout the community and break connections with service providers. This increases the potential for infectious disease spread.”

ACLU-WV filed a federal lawsuit to stop the city from demolishing the encampment. Patrick Cassidy and Timothy Cogan of Cassidy, Cogan, Shappell and Voeglin, LC, a Wheeling-based firm, served as co-counsel.

A judge determined the notice given to the tent encampment residents was “woefully insufficient” and was in violation of the constitutional rights of the people living there.

However, the city responded by simply providing additional notice to the residents and extra time to retrieve their property. Unfortunately, despite CDC guidance, the city then moved forward with razing the encampment.

“Destroying what little shelter these community members have does nothing to solve the crisis of homelessness. In fact, it greatly exacerbates the problem,” ACLU-WV Legal Director Loree Stark said. “To do this during a global pandemic when so many people have lost their livelihoods and homes is cruel and in violation of public health guidelines.”

ACLU-WV will continue to advocate, and when necessary, litigate against municipalities across the state when the rights of marginalized people are threatened.

ACLU-WV takes Martinsburg to court for flouting open records laws

ACLU-WV filed suit against the city of Martinsburg in August for its failure to fulfill obligations under state open records laws.

ACLU-WV took action after the city failed to respond to a request we submitted on behalf of the Berkeley County Unity Coalition following arrests at demonstrations in Martinsburg. The demonstrations were in response to the deaths of George Floyd, Breonna Taylor, Ahmaud Arbery and other Black Americans at the hands of law enforcement.

The Unity Coalition is a group of civil and human rights organizations, educators, faith leaders, business owners and other concerned citizens.

ACLU-WV submitted its FOIA request to the Martinsburg City Attorney’s Office and the Martinsburg Police Department on June 17, 2020, for records including bodycam and dashcam footage in possession of law enforcement from the evenings of the events, names and badge numbers of officers involved, and more.

At the time that ACLU-WV submitted the request, Dr. Zakee McGill, president of the Berkeley County NAACP, a member organization of the Unity Coalition, underscored the importance of government transparency and protestors’ rights.

“City officials and the MPD should be on notice that we will be ever vigilant and we will not stop pursuing justice for all,” he said. “Black lives matter, and the First Amendment rights of citizens are sacred.”

Although the West Virginia Freedom of Information Act requires government agencies to respond within five business days to requests, the city failed for more than 50 days, despite reassurances, to provide any documents requested.

“This is a clear violation of our state open records laws,” said Loree Stark, ACLU-WV legal director. “The government does not get to determine, on its own timeframe, whether or not it would like to turn over public information to the public.”

Abuse of police power is an ongoing issue in Martinsburg. Just prior to ACLU-WV’s suit, the 4th Circuit Court of Appeals vacated a decision by the United States District Court in the Northern District of West Virginia involving the murder of Wayne Jones, at the hands of Martinsburg City police.

In that case, the lower court had granted qualified immunity to the five officers involved in the shooting. As a result of the 4th Circuit’s opinion, the case has been remanded back to the Circuit Court, where it may proceed to trial.

In issuing its decision, the 4th Circuit stated:

“Before the ink dried on this opinion, the FBI opened an investigation into yet another death of a [B]lack man at the hands of police, this time George Floyd in Minneapolis.

“This has to stop. To award qualified immunity at the summary judgment stage in this case would signal absolute immunity for fear-based use of deadly force, which we cannot accept.”

Shortly after the lawsuit was filed, the city finally provided responsive documents to the initial request. The city has yet to provide documents and materials to one of the other requests. ACLU-WV expects that to be resolved as litigation continues.

Legal threat leads to vaccine plan for WV jails and prisons

From late March to early May, the state vaccinated more than 2,800 incarcerated people.

Although Gov. Justice opened COVID-19 vaccines to individuals 16 and older in mid-March, his administration at that time had yet to put into place a plan to vaccinate any of West Virginia's roughly 10,000 incarcerated people.

On March 26, ACLU-WV joined Mountain State Justice, Inc., in demanding the Justice administration immediately begin offering the vaccine to incarcerated people.

Just like individuals in any other congregate setting, people detained in the state's jails and prisons should have been provided access to the vaccine on a higher-priority basis. The letter followed a months-long effort by a coalition of organizations urging the governor and the state to take action.

One day after receiving our letter, Justice's office announced a plan to begin vaccinating people in correctional facilities by the end of that week. The government is also providing weekly updates as to how many people in those facilities have received a vaccine.

The administration's decision came on the heels of court rulings in Oregon and New York in similar cases. In both, judges determined government officials had been unfair and inequitable in implementing vaccination plans, and ordered them to institute appropriate plans.

"Providing access to COVID-19 vaccines to these vulnerable populations is not only the right thing to do, it is also required by the U.S. Constitution," said Rachel Kincaid, a staff attorney at MSJ. "The United States Supreme Court has repeatedly held that officials cannot simply ignore the serious medical needs of incarcerated populations."

COVID-19 has devastated incarcerated populations in West Virginia. In early March, after outbreaks erupted in Western Regional and Southern Regional jails, at least 275 incarcerated individuals were diagnosed with COVID. More than 3,300 people in state custody have been diagnosed in the time since the virus arrived in West Virginia, and at least ten people have died from complications arising from the virus.

The problem was compounded by the fact that, while those working in these facilities had been offered the vaccine, a substantial percentage of those workers elected not to take it. An employee who brings COVID-19 into a facility would put anyone, including someone incarcerated, at risk of contracting the virus.

"While it took far too long, we are pleased that Governor Justice's administration decided to implement a plan to move forward and provide vaccinations to those who are incarcerated," said Loree Stark, ACLU-WV legal director. "They are no less West Virginians than those who are not incarcerated."

ACLU-WV, along with partner organizations, has advocated for the release of as many people as possible from state custody since the beginning of the pandemic. As part of that effort, ACLU-WV filed two separate legal actions: a successful motion to unseal the state's COVID-19 response plan and another to release 39 at-risk individuals.



Morgantown boldly moves forward with Civilian Police Review & Advisory Board

After more than a year of advocacy from ACLU-WV and our supporters, the NAACP, the WVU Faculty Senate, and others, Morgantown City Council has taken the bold step of creating a police review board.

Council members voted unanimously for the ordinance despite legal threats from the West Virginia Attorney General's Office and the Fraternal Order of Police.

After the murders of Breonna Taylor, George Floyd and so many others, protests erupted throughout West Virginia. Calls for everything from increased oversight to divestment from policing altogether were heard in every corner of the state.

Several Morgantown residents, including representatives of the local NAACP chapter, raised concerns of trust between the local community and the police department. Their concerns are not unfounded. For example, Black people comprise just 3 percent of Morgantown's population but more than 20 percent of MPD arrests.

The Morgantown Human Rights Commission has passed a 15-point 'Resolution Affirming and Strengthening Community Policing' which calls for additional training, the formation of coalitions and the strengthening of community relationships to ensure Morgantown residents in crisis receive compassionate and effective responses. It also calls for restricting the use of military-grade equipment for local police practices, and the establishment of a Civilian Review Board.

After passage of the resolution, the Morgantown-Kingwood NAACP led the charge along with ACLU-WV and local community members to create a board in Morgantown.

Civilian Review Boards have existed in the United States for decades. While there are many

different models for such boards, they share the same general goals of increased transparency and accountability.

Morgantown City Council formed a Special Committee to draft an ordinance creating the board. Over seven months, in more than 20 public meetings, advocates discussed this ordinance and its provisions line-by-line, calling for a board that operates based on best practices and serves the needs of the community, particularly those who have historically been most harmed by police practices.

The proposed ordinance would create a board that can not only review and make recommendations on policy, but also receive community complaints and concerns, investigate them, and make recommendations on police discipline when officers are found to have acted inappropriately.

"Without this ordinance, if you experience abuse or inappropriate conduct at the hands of police, the only place you have to report that conduct is to the same department that committed the abuse in the first place," said Mollie Kennedy, ACLU-WV Community Outreach Director. "This ordinance would change that by providing residents with an independent body serving as a check on the enormous power of law enforcement."

West Virginia Attorney General Patrick Morrisey has taken the side of less accountability for law enforcement by threatening legal action against the city. As this debate continues, ACLU-WV will continue to stand on the side of more accountability. No one is above the law and we'll continue to fight for communities where law enforcement are held accountable when they overstep their authority.





TIME TO PROTECT THE DREAMERS

by Jackie Lozano

I was two years old when I was brought to the United States, but I didn't find out who I really was until I was a teenager.

I remember meeting with my guidance counselor to plan the future. We hoped to better my chances of being accepted into college and possibly obtaining a scholarship. She asked for my Social Security card, and I thought maybe that information had been lost when I moved from another school. My mom always handled that part of my life.

I went home that night and my world collapsed.

My mother explained to me the reality of my situation. I knew I was born in Mexico, but I didn't know the legal part of my life.

I knew my mother was undocumented and she struggled a lot because of it. I knew she was treated badly at work, and the pay was unfair. I knew why she was not home often, and why she worked so much. She had three kids to take care of, and being the oldest, I had to take over and help raise my younger brothers.

On this day I found out I, too, was undocumented. Even though I grew up here, learned the language inside and out, and got more of an education than my mother, I realized I was more than likely going to face the same struggles she did.

I wouldn't be able to put my education into practice because I couldn't work legally. There was no way for me to protect myself from exploitative labor because undocumented people have to live in the shadows.

I remember going back to school and everything really settling in for me. My guidance counselor explained I could not apply for federal aid so FAFSA was off the table. I could apply for scholarships, but there weren't many. I still tried. I hoped one day, before my adulthood, the people leading this country would pass immigration reform.

A few months later, President Obama released his plan for DACA (Deferred Action for

Above: The migratory monarch butterfly is a universal symbol for immigrants.
illustration by Josh Martin

Childhood Arrivals). I remember reading the newspaper at my mom's job every time we went to help her work. I would clip every article and keep it in a notebook. I applied as soon as they started admitting applications. There was fear and anxiety with every pen stroke.

Today, DACA has survived attacks from the Trump administration. It is a remarkable success but it is also very limited, temporary and under immediate legal threat. The Supreme Court deemed DACA legal and ordered the program reopened, but the Attorney General of Texas is leading yet another legal challenge to strip hundreds of thousands of DACA recipients of their protection under the program.

This still leaves hundreds of thousands of dreamers who were unable to enroll in DACA, including nearly 100,000 dreamers graduating from U.S. high schools each year, without protection and at risk of deportation.

We dreamers are Americans, and a pathway to citizenship for us is long overdue. That is why we are now looking to our representatives to pass the DREAM Act, which stands for the Development, Relief, and Education for Alien Minors Act.

The act would establish a process for dreamers to apply for conditional status and ultimately become citizens. It would be a positive first step to meaningful immigration reform and would provide immediate certainty and opportunity for hundreds of thousands of

dreamers and their families.

A new poll commissioned by the ACLU and ACLU-WV shows nearly two-thirds of voters in West Virginia support the DREAM Act. The poll found 57% of West Virginia voters think immigrants make their state a better place to live, 64% support a pathway to citizenship for undocumented people whose parents brought them to the United States as children, and 63% support the DREAM Act of 2021.

These findings confirm what we hear from people every day across the state: West Virginians agree with Senator Manchin that dreamers should be able to live their lives without fear of being deported away from their families, jobs, and communities.

Every day Congress doesn't act is another day young people live in fear of being deported from the only country they've ever called home. The Senate has an obligation and an urgent mandate to provide certainty and opportunity for dreamers and create stronger, more prosperous communities for all West Virginians.

We urge every U.S. Senator to cosponsor the DREAM Act, and for Congressional leadership to quickly bring it up for a vote.

Our New Home on Kanawha Boulevard

Over the past several years, ACLU-WV has grown rapidly. In 2016, we only had four full-time employees. Today, we have nine. Over time, it became increasingly cramped in our old Capitol Street office in Charleston. Ultimately, we outgrew the space.

So at the start of this year, we moved about a mile-and-a-half down the road to a great new location right on the Kanawha River, about a block from the state Capitol. Our new space is plenty big enough to house our staff and interns.

We also have room to hold community meetings and public events. Additionally, we are able to share the space with like-minded organizations like Call to Action for Racial Equality and the WV Family of Convicted People.

Our hope is the great meeting space and proximity to the Capitol will lend itself to the new ACLU-WV office becoming a hub for groups working on protecting and expanding human rights in the state to collaborate and build collective power. We hope to see you here soon!



Credit: Joe Solomon



Remembering RBG

By Billy Wolfe

On Sept. 18, 2020, Supreme Court Associate Justice Ruth Bader Ginsburg, a pioneer in women's rights and arguably the ACLU's most famous alum, died from complications of metastatic cancer.

She left behind a nation changed for the better but anxious over its future. Her dying wish, that the winner of the 2020 election nominate her successor, was ignored and her seat instead became one of three to be filled by President Donald Trump.

As a young lawyer, she played a major role in winning the first U.S. Supreme Court decision holding a state statute unconstitutional because of sex discrimination. She went on to head the ACLU's Women's Rights Project from its inception in 1971 until President Jimmy Carter named her to the federal bench in 1980.

When President Bill Clinton nominated her for the Supreme Court she was seen by many as a consensus builder, and as the court lurched to the right she became known for her "notorious" dissents in addition to her deep friendship with Justice Antonin Scalia, her philosophical opposite.

In the hours after her death, makeshift memorials sprung up throughout the country, including in West Virginia. Mourners gathered in Morgantown and Charleston to pay their respects to a person who paved the way for so many others.

We asked ACLU-WV staff, board members and our allies to tell us what Justice Ginsburg's legacy means to them.

"As a woman, a working mother, and a person who exercised her right to choose an abortion, I've always felt indebted to RBG for her keen ability to make plain historical double standards in gender equity. Beyond her principled stands for women, I see her as a role model for the kind of critical thought, pragmatic liberalism, and strategic messaging I have always admired. She will always be an iconic figure." – Rose Winland, ACLU-WV operations and development manager

"RBG will stand as a towering force for all people, including myself, for decades to come. Ruth Bader Ginsburg inspires me to wear my heart on my sleeve and I will continue to honor her legacy by being the voice for the voiceless and standing up for marginalized communities - especially the patients we affirm, support, and protect." – Ramsie Monk, development director, Women's Health Center of West Virginia

"Ruth Bader Ginsburg represented the fight for equality that is very much still continuing. I admired her for many reasons, but especially for her fierce and unapologetic advocacy for women to be able to live full lives. Her powerful voice for social justice, women's rights and gender equality helped shape our democracy for the better. I especially admired her ability to value differences of opinion and how she maintained friendships even with those with whom she disagreed." – Anne Farmer, ACLU-WV board member

"For those of us who grabbed at the brass rings of the opportunity to make a difference in our own lives and the lives of all women, RBG was an icon and an example. Even as we whirled through our own glass ceilings, we knew those who loved us were fearful for us, perhaps resentful, sometimes offended or embarrassed by our choices. Her example gave us courage." – Hap Becker, ACLU-WV board member



Mourners laid flowers and lit candles at the Supreme Court following Justice Ginsburg's death.

Credit: Gayatri Malhotra | Unsplash



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Far too often, talented, hardworking young people who are directly impacted by the issues we fight for are funneled away from following their passions because they must prioritize paid work over unpaid internships. They miss out on the experience, mentorship, and relationships that come with working with institutions like the ACLU. These experiences change young people's lives. This, in turn, can change our society.

With that in mind, ACLU-WV is launching the Equity and Justice Fellowship. Open to undergraduate students, graduate students, law students, and nontraditional students or citizen activists from historically marginalized communities, this program places a fellow with ACLU-WV staff on legal advocacy, policy advocacy, research, communications, community education, organizing, development, or nonprofit management matters.

To learn more about how you can support this fellowship, contact Rose Winland at rwinland@acluwv.org.



Equity & Justice Fellowship

