

ACLU^{WV} magazine



One year later, West Virginia
still hasn't addressed the nation's
'most concerning outbreak.'



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Contributor

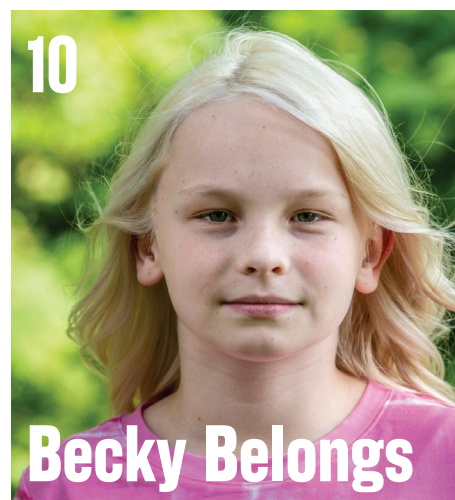


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Cover illustration by Jamie Miller

FROM OUR DIRECTOR

Dear ACLU of West Virginia Family,

In September 2016, my family packed up a truck to embark on a new adventure in the Mountain State. My kids moved away from family and started new schools. My wife left a job she valued and a home that she loved. All so that I could fulfill a dream and work for the American Civil Liberties Union. Six years later, I have the opportunity to repay the sacrifices my family made for me by stepping down as ACLU-WV executive director and following my wife across state lines to support her career aspirations.

When I arrived at ACLU-WV, we had a small-but-mighty staff. I remember asking at our first meeting what we were doing for the upcoming election and was told we really didn't have any plans. I asked if we could pull off an election protection hotline in the next 45 days. It was a pretty audacious suggestion but everyone on staff enthusiastically got to work and we built ACLU-WV's first formal election protection program. It was a real success that we've expanded dramatically in subsequent elections.

While we were putting so much work into this program, I remember thinking that we'd have a little time to recover before preparing for legislative session. Well, it didn't work out that way, because Donald Trump was elected President, Jim Justice was elected Governor and we've been going full speed ahead ever since.

Over the past six years, the ACLU's role in counterbalancing the darkest impulses of government has become clearer than ever. The Muslim ban, the child separation policy, the attempted insurrection and unrelenting attack on democracy, the pandemic, targeting of transgender kids, and now the threat to basic bodily autonomy. People can't help but recognize that the ACLU is the last line of defense for so many of our most basic rights. As such, our membership roles have exploded and we've received support like never before. This has put us in a position to respond to the unprecedented challenges of our time.

When I started, there were four of us on staff (including me). Today we have a staff of 14. The staff we've assembled is amazing — brilliant, hard-working, and compassionate. We've deemphasized some traditional job requirements, such as a college degree, instead focusing on hiring people who are directly impacted by the work and people who have a demonstrated commitment to activism. That change in philosophy has completely reshaped our organization. There is no question that ACLU-WV's greatest asset is its incredible staff.

We've fundamentally changed the way we conceptualize our work. In a place like West Virginia, where it seems like our civil liberties are under constant attack, it would be very easy for all of our work to be defensive, simply responding to whatever crisis is in front of us at the moment. When I started as Executive Director, that's largely how we operated. It's what I call the "whack-a-mole" theory of social

"As my tenure as Executive Director comes to an end, I want to say thank you to all of you."



change. However, we recognized we weren't fulfilling our mission of "protecting and expanding civil liberties." We were only protecting them. As a result, we adopted an integrated, long-term campaign model and committed significant resources to three campaigns that could radically change West Virginia for the better. We are now in our third year of our criminal law reform, juvenile justice and defense of democracy campaigns. It has focused our work and made us more accountable.

Over the past six years, we've been on the front lines of some of the most important issues of our time. As the epidemic of racist police violence ravaged our nation, We won a lawsuit on behalf of former police officer Stephen Mader after he was fired by the Weirton Police Department for not shooting a young Black man that he reasonably believed was no risk to himself or others. We've litigated several groundbreaking cases on behalf of transgender kids facing attacks on their very existence. We filed an important emergency action that blocked Justice's attempt to ban abortion early in the pandemic. We've sued to protect the rights of the unhoused. And we've fought to protect the rights of incarcerated people.

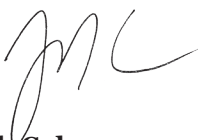
We've also done amazing organizing work. We started the Appalachian Queer Youth Summit, a summer camp-style advocacy training for LGBTQ+ high schoolers. We've done deep organizing with justice impacted people, lifting their voices in policy discussions and identifying and supporting community leaders. And in 2018, we put up an unprecedented fight against Amendment 1, which, despite our best efforts, ultimately eliminated protections for abortion from the state Constitution.

At the Legislature, we beat back more bad bills than I can name. We've consistently helped defeat attacks on LGBTQ+ rights and immigrants. We defeated attempts to whitewash history in public schools. We've stopped efforts to ramp up failed "tough on crime" policies from the 1970's. And we've helped stop all attempts to revive the death penalty in West Virginia. Believe it or not, even in this difficult political environment, we've gotten some important positive bills passed, especially in the realm of the criminal legal system.

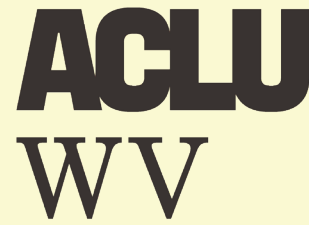
To our board, staff, members, and supporters: thank you for giving me the opportunity to be involved in the most important fights of our time in such a challenging of environment. Thank you for standing with us, on occasion marching, but always raising hell when it was needed. Thank you for inspiring me with a spirit of generosity and empathy that I've tried to mimic. And thank you for continuing the fight.

ACLU-WV is here for you. It is stronger than ever. And I am sure with the next Executive Director we will continue to protect one another and move closer to that more peaceful and just world we all deserve.

In Peace and Solidarity,



Joseph Cohen
Executive Director



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THE FIGHT FOR LGBTQ+ RIGHTS

*From accurate IDs
to the trans athlete ban,
ACLU-WV now has more
LGBTQ+ cases in court
than ever before.*

Photo illustration: Josh Martin



Appalachian Queer Youth Summit, Summer 2021

The Appalachian Queer Youth Summit is a summer camp for LGBTQ+ West Virginia highschoolers and students who come from LGBTQ+ families.

Photos: Michelle Breiter

As he raised a pride flag over

Camp Virgil Tate on the first day of the inaugural Appalachian Queer Youth Summit, Grayson Cooper felt a swell of emotions.

"I have attended 4-H camps since I was 11," he said. "Seeing the place that I consider a second home become a safe space for queer youth was one of the best experiences I've ever had."

Grayson was a counselor at the first-ever in-person Summit, a summer camp gathering for West Virginia high schoolers who either identify as LGBTQ+ or come from LGBTQ+ families.

"Being a queer kid in Appalachia can be unbelievably tough," said Mollie Kennedy, ACLU-WV community outreach director and chief organizer of the Summit. "We also know the many issues affecting our community will not be solved today or next year; that's why teaching the next generation of activists is so crucial."

West Virginia is tied with Oklahoma for dead-last in LGBTQ+ acceptance. There are no explicit statewide nondiscrimination protections for housing or public accommodations. Just two cities protect queer youth from the harms of so-called conversion therapy, and hate crimes protections are also virtually nonexistent here.

According to the 2017 GLSEN National School Climate Survey, West Virginia LGBTQ+ secondary students overwhelmingly reported verbal harassment at school because of their orientation (82%) and gender identity (76%). Many also reported physical harassment in school.

"Every year ACLU-WV is inundated with requests for help from LGBTQ+ kids around the state who are being mistreated in school," Executive Director Joseph Cohen said. "Our tiny legal department is currently litigating three cases on behalf of people who were discriminated against based on their gender identity when they were minors, but it was clear our affiliate needed to do more."

"Mollie, our brilliant community outreach director, pitched the idea for the camp at a summer 2019 staff retreat -- there could be s'mores and water balloon fights like a traditional summer camp," Cohen continued, "but there would also be political education and power building."

Kennedy pointed out that, although studies show West Virginia has the highest percentage of trans-identifying teens in the nation, the geographic

isolation of the state and prevailing social and political attitudes can lead many young LGBTQ+ people to feel alone, unsupported and fearful for their own safety.

"Our goal is to bring these young people together, break down the barriers of isolation many of them feel, and teach them the skills to organize around the issues that matter most to them," she said.

Campers describe the summit as a place they felt safe and seen. They formed friendships that lasted well after camp was over.

One complaint, however, was that camp was too short. So, instead of a two-night Summit, 2022 will be a weeklong event at Jackson's Mill 4-H camp in Lewis County.

Perhaps most importantly, campers learned they aren't alone.

"I have never been in a place where I've seen so many people who look like me, so many people who love me for me," said Mykah Smith, 16, of St. Albans.

Mykah, who identifies as gender fluid, said they will return to camp in 2022.

"I can't wait to see my chosen family again," Smith said.

— BILLY WOLFE

"For years I never thought I fit in, but having this group of people who I can relate to gives me hope."

—Seb Riley (he/they)







BECKY BELONGS

TRANS RIGHTS

ACLU-WV is suing to stop a discriminatory ban on young transgender athletes.

It's been a marathon of a year for Becky Pepper-Jackson and her mom, Heather.

Before being initially barred from her middle school all girls' track team, then 11-year-old Becky was part of her school's all-girl cheer squad. She and her mother would run down the country road by their house in Upshur County, solving math problems between well-paced breaths. On celebratory days, they'd get scoops of their favorite ice cream, buy the big container of rainbow sprinkles, and pile those sprinkles on top.

But when House Bill 3293 was introduced in the 2021 legislative session, Jackson spoke with her daughter of its potential consequences, and together they decided to reach out to ACLU-WV.

"I've always followed the good work that the ACLU's been doing," Jackson said. "I reached out and said 'please tell me you're going to fight this law.' They said it's already on their radar."

As soon as Gov. Jim Justice signed HB 3293 into law late last April, Becky and other transgender girls like her were barred by state law from being on school sports teams that aligned with their gender.

"When it passed, when the governor actually signed it, we were shocked and dismayed," Jackson said. "[Becky] was devastated, there was lots of tears. Cause

ACLU-WV has secured an injunction allowing Becky Pepper-Jackson, to run on her school's track and crosscountry teams.

Photo Illustration:
Josh Martin

CONTINUED FROM PAGE 8

all she wanted to do was run. And for someone to tell her she can't run because of who she is, is nothing but discriminatory."

In May 2021, ACLU-WV along with ACLU National's Jon L. Stryker and Slobodan Randjelovic LGBTQ & HIV Project, Lambda Legal, and the law firm Cooley LLP filed a motion for preliminary injunction against enforcement of the law in the West Virginia Southern District Federal Court.

"This legislation is not only cruel and stigmatizing – it's unconstitutional," ACLU-WV Legal Director Loree Stark said after filing. Stark is not the only one who agrees HB 3293 is unconstitutional.

Last June, the U.S. Justice Department submitted a statement of interest in Becky's case, citing that Title IX of the Education Amendments of 1972 and the Equal Protection Clause of the 14th Amendment "do not permit West Virginia to categorically exclude transgender girls from participating in single-sex sports restricted to girls."

But relief came soon after. In July, U.S. District Court Judge Joseph Goodwin granted a preliminary injunction allowing Becky to finally try out and join the girls' cross country team.

"When I told her that we had gotten the injunction, there was a whole lot of whoop-whooping going on," Jackson said. "We were excited so of course we had to go get ice cream with rainbow sprinkles."

While a preliminary injunction does grant Becky a rest stop from the full effects of HB 3293, there's still a long road ahead.

In September last year, the court permitted cisgender female college athlete Lainey Armistead to intervene on the defendants' behalf. Armistead is arguing that her right to run a fair race is at risk if trans female athletes – which make up

less than one percent of the general population – are allowed to run alongside her. This argument has already been debunked by well-respected medical professionals such as Dr. Joshua D. Safer of the Mount Sinai Center for Transgender Medicine and Surgery in New York.

As an expert witness, Safer argued in a declaration given to the court in late June that there are no physiological advantages between cisgender male and females before puberty. Safer also argued Becky and other transgender kids who take androgen inhibitors – hormone blockers that offset the start of puberty – and hormone replacement therapies given to trans girls and women inhibit any performance advantage they otherwise may have had if testosterone were at levels consistent with cisgender males.

The bigger threat is the fear many cis people have of trans kids and adults just trying to be a part of society – despite all the evidence that points toward no threat to equitable rivalry between trans and cis athletes.

"I just want to run, I come from a family of runners," Becky said. "I know a hurtful law like this is to all kids like me who just want to play sports with their classmates, and I'm doing this for them. Trans kids deserve better."

Becky and Heather are heading to trial this July to try and dispel this fear for good.

As Judge Goodwin said when he granted the preliminary injunction last year, "A fear of the unknown and discomfort with the unfamiliar have motivated many of the most malignant harms committed by our country's governments on their own citizens."

— ZAKI MICHAELS

Incorrect IDs are an obstacle to daily life for trans West Virginians

I sat on hold for the tenth time that week, and probably the 100th time in the past six months, nostrils flared and blood pressure rising while I waited for the Glendale, California courthouse clerk to tell me if today would be the day that the court finally stopped "losing" my civil complaint for a name and gender marker change.

The unnerving hold music stopped and the clerk sighed in exasperation.

"Alright Miss-"

"-It's Mister," I corrected.

"-Michaels. The judge signed the order. We close at 5 p.m. if you want to pick it up in person today," she said.

I checked the time and ran to the car, hopped onto California Highway 101 hoping against all hopes I would make it to the courthouse in the two hours before closing time.

When I finally got before the clerk and told her my name, she threw a manila envelope at me. At that point I didn't care how rude she was, I was just glad to finally have my name and gender marker officially, legally allowed by the court.

It's been nearly four years since that court order came through, and I'm still dealing with paperwork for name and gender changes on some of my documents. And while this may not seem like a major concern, I ask you to reflect on how overtly simple and smooth the process is to change one's last name while getting married in every single state. There are no requirements to prove your dedication to a person to change your last name with a marriage





Policies in states like West Virginia can keep LGBTQ+ people from feeling like full citizens. **Illustration: Josh Martin**

in West Virginia.

Take ACLU-WV clients like Xavier Hersom and “John Doe” for example. When Hersom and Doe applied for their name and gender marker changes last year, they were denied on the grounds that in 2020 the West Virginia Supreme Court of Appeals ruled circuit judges can no longer issue court orders directing the state Department of Health and Human Resources (DHHR) to correct gender on birth certificates.

“This was devastating to me because the process to change my name and gender marker to reflect who I am has taken me four years so far,” Hersom said. “Many forms of discrimination against LGBTQ+ people are still permitted under West Virginia state law.”

Both Hersom and Doe are being represented by ACLU, ACLU-WV and the Harvard Law School LGBTQ+ Advocacy Clinic in a federal lawsuit asking the court to declare state birth certificate policies relating to trans people unconstitutional.

The policy denies Hersom and Doe’s rights to due process and free speech, as well as their right to equal protection under the law – something that can shield trans people from harassment and violence.

As Hersom said, “This court case is not just about me, it is about all transgender West Virginians who want the same rights as everyone else.”

— ZAKI MICHAELS

Michael Critchfield will have his day in court

In June, the West Virginia Supreme Court of Appeals reversed a lower court’s dismissal of Michael Critchfield’s case against the Harrison County Board of Education.

Critchfield, a trans teenager, suffered abuse at the hands of assistant principal Lee Livengood in 2018. Livengood followed him into a boy’s restroom where he berated, harassed and misgendered him, and even told him to “come out here and use the urinal” to prove he is a boy.

In January 2020, A Harrison County Circuit Court judge dismissed claims brought on Critchfield’s behalf by ACLU-WV and Teresa Toriseva of Toriseva Law. The Supreme Court ruling remands the case back to Circuit Court and allows the case to proceed.

“We’ve said all along we wouldn’t tolerate the kind of behavior Michael endured from a student and we certainly shouldn’t tolerate from a school official who is supposed to educate and protect students,” ACLU-WV Legal Director Loree Stark said.

Critchfield, who graduated Magna Cum Laude last spring, said this fight is about helping other trans kids.

“I’ve stayed in this fight because I want schools to be safer for trans kids who come after me,” he said. “I’m doing this for them.”

The case is now in Harrison County Circuit Court.

— BILLY WOLFE



LAST LINES OF DEFENSE



As the United States Supreme Court appears ready to overturn *Roe v. Wade*, West Virginians aren't backing down in the fight to defend abortion access.

Left: Volunteer escorts at the Women's Health Center of West Virginia, the state's only remaining abortion provider, help ensure patient privacy against a constant barrage of harassment from forced-birth extremists. Pictured are: Steve Revercomb, Rusty Williams, Jamie Miller, Samantha Facemire, Angel Amores, Beth Morrison, and John Maher. **Photo by Kyle Vass**

Below: Dr. Anne Banfield no longer practices in West Virginia but is already in talks about how to treat patients from the state in Maryland, should abortion be criminalized here. **Courtesy Photo**



Dr. Anne Banfield never saw this day coming.

“No one thought *Roe* could possibly fall when I began practicing medicine in 2009,” she said. “In those days, we assumed *Roe* would protect us and our patients from these people who wanted to take away access.”

But reality began to sink in the moment Banfield heard of Justice Ruth Bader Ginsburg’s death, and of then-President Trump’s plans to fill the seat before the 2020 election.

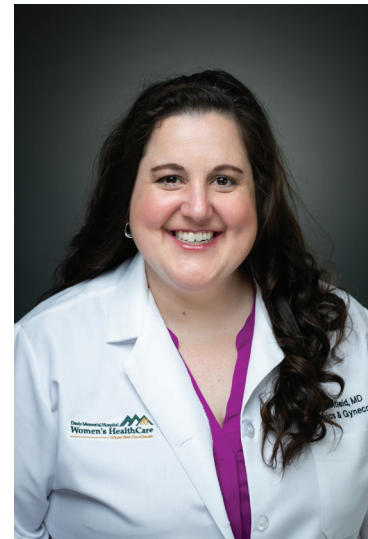
“That’s when I knew we were in trouble,” she said.

Banfield, who has served in leadership roles with the American College of Obstetricians and Gynecologists, West Virginia Medical Association, and Gov. Jim Justice’s Tobacco-Free Family Advisory Council, recently left West Virginia to practice in neighboring Maryland. She has already discussed with her colleagues how they can provide care to West Virginians seeking abortions across state lines in a post-*Roe* world.

The U.S. Supreme Court will likely overturn *Roe v. Wade*, the landmark case that has provided millions with the right to an abortion for nearly five decades, according to a leaked draft opinion in the *Dobbs v. Jackson Women’s Health Organization* case. A ruling will be issued this summer.

West Virginia lawmakers are expected to quickly ban or greatly limit abortion if the ruling goes as expected. A Civil War-era law banning “the crime of abortion” remains on the books in West Virginia, though its enforceability has been called into question.

Banfield is just one of many who says they will work to



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make sure West Virginians who need an abortion can get one, even if *Roe* falls.

When he was growing up

in Baltimore, Jim Lewis only heard horror stories about abortion.

“I didn’t know squat,” said Lewis, now 86. “You put men away in jail if they were caught doing an abortion. It was seen as a criminal offense against women.”

It wasn’t until he became the Rev. Jim Lewis that he began having conversations with some of those women, many of whom were in abusive relationships and were desperate to terminate their pregnancies.

“That was the first chance I had to truly listen,” he said. “I came at this from a deeply theological perspective. Jesus would stand with anybody who’s getting beaten up.”

Throughout the 1960s, Lewis worked closely with the Clergy Consultation Network in West Virginia. Before *Roe* was the law of the land, CCN consulted with thousands of people seeking abortions and helped them find providers.

Years before a loan from Planned Parenthood helped start the Women’s Health Center of West Virginia, Lewis and others worked out of a small office on the second floor of St. John’s Episcopal Church in Charleston. Their mission: asking congregants for money and then using it to get women to New York City, and later, Washington, D.C., for the care they needed.

If abortion is re-criminalized, Lewis believes there is a large network of West Virginians who will spring into action to again get people the care they need out of state. He called those people his heroes.

If forced-birth becomes

the law of the land in West Virginia, the Choice Fund, administered by the Women’s Health Center, will be used to help people get care in other states.

The Choice Fund raised \$25,000 in donations in just the first ten days after the draft opinion was leaked, WHC Director Katie Quiñonez said.

“I was touched to see an outpouring of support,” Quiñonez said. “It confirmed what abortion providers have always known — people support abortion access. But I was also disappointed that it took a leaked draft decision to overturn *Roe*



to see that. The donations we’ve received will no doubt make a difference in the lives of West Virginians. But we’re going to need to see that sustained level of support and collective action as we navigate this new world of abortion being banned in our state.

“The financial needs of West Virginians seeking abortions are only going to grow as they’re forced to leave their communities and travel hundreds to thousands of miles for health care,” she added.

Others have gotten involved by volunteering as clinic escorts. They make sure patients are able to get to their appointments with their dignity intact as forced-birth extremists congregate outside and try to humiliate them and film their faces.

While *Roe* has been a safeguard for people’s rights, the reality is it has never been enough in a state like West Virginia, Quiñonez said.

Women’s Health Center is the only abortion clinic in a state of 1.8 million people. In a poor state with so many geographically isolated communities, a right to an abortion is important. Access, however, is just as important.



Left: Protesters take over the steps of the Capitol in May after a leaked memo from the U.S. Supreme Court showed justices ready to overturn *Roe v. Wade*.

Photo by Billy Wolfe

Above: ACLU-WV Development Manager Rose Winland shares her abortion story with a crowd gathered in Charleston in September 2021.

Photo by Kyle Vass

If the Legislature takes a hard

line on abortion, it will be yet another obstacle to attracting young, educated people to the state, said Dr. Banfield, the OBGYN who recently relocated to Maryland.

The political climate has made it harder for West Virginia to attract young medical professionals, creating a sort of negative feedback loop in a state that continues to slide further into regressive politics as it loses young, educated people to other states.

“What they have found from medical data is there are students who will not interview or even consider programs in states where they cannot access abortion training,” Banfield said. “And people are much more likely to stay in locations where they train.”

Banfield described the past few years in West Virginia as “a never-ending battle to keep people’s reproductive rights intact,” and said there is a stark difference in practicing medicine in a state where those rights are safeguarded.

“A lot of people have asked me if I left because of the political environment in West Virginia,” she said. “I tell them I left

because I had an amazing opportunity, but that I am so relieved now that my patients won’t have barriers to accessing reproductive health care.

“It’s also a relief to know I don’t have to worry about my license, or my standing with the board or whether I’ll be fined or arrested for offering my patients the care they need,” she added.

ACLU-WV Advocacy Director Baumwell, who lobbies against dozens of harmful and discriminatory bills every legislative session, agreed.

“These laws tell young, educated people they aren’t wanted here in West Virginia,” he said. “That brain drain has consequences for our economy and our wellbeing.”

Advocates will work like never before to hold back any forced-birth legislation that should be proposed after the Court’s official ruling is handed down, Baumwell said.

Nearly one in four American women will have an abortion before the age of 45, but societal stigma keeps many of their stories from ever being shared. This creates an environment where abortion continues to be seen as negative instead of the lifesaving care that it is.

Quiñonez said one of the most important things going forward is to break that stigma by speaking about abortion regularly.

“One of the many reasons we are on the verge of *Roe* being overturned is because abortion has been treated as a divisive, taboo topic instead of what it is — health care,” she said. “When we remain silent about our lived experiences, the anti-abortion movement fills the void with their false narrative. Talk about abortion. Tell the people in your life you’re pro-abortion. “Say the word abortion.”

— BILLY WOLFE

BULLET DODGED

The 2022 Legislative Session ended with only a few harmful bills making it to final passage, but the worst may be yet to come

It could have been much, much worse.

That was the general consensus of so many advocates who closely followed the 2022 Legislative Session.

From Day 1 of the session, extremists seemed poised to push through as many harmful and discriminatory bills as possible. On just the second day, forced-birth bills flew out of committee without debate, despite tearful witnesses testifying that such legislation would lead to death.

But by the session's end, few of those bad bills had made it past the finish line, with one bill – an attempt to whitewash school discussions about race – dramatically dying in the final seconds of session.

“All in all, civil libertarians can feel that the 2022 session was a white-knuckle ride that ultimately ended relatively benignly,” ACLU-WV Advocacy Director Eli Baumwell said. “In fact, there were some modest advances, and despite movement on a number of dangerously regressive bills, very few were actually passed.”

There was HB 2232, which would have allowed small groups of municipal voters to force referendums on LGBTQ+ nondiscrimination ordinances, and SB 71, which would have protected the harmful and widely discredited practice of conversion therapy on LGBTQ+ kids from being banned. There was a 15-week abortion ban, a bill that spread dangerous falsehoods about the handling of fetal tissue, and a bill punishing cities if undocumented people were found living within their boundaries.

There also was SB 262, a bill backed by State Treasurer's Office that would have punished financial institutions from engaging in constitutionally protected boycotts of fossil fuel companies. There was a bill limiting assistance for unhoused West Virginians, and one making it illegal to mail publicly accessible absentee ballot applications.

Delegate Tom Fast (R-Fayette) listens as ACLU-WV Legal Director Loree Stark testifies at a public hearing during the 2022 Legislative Session.

West Virginia Legislative Photography



In the end, the most significant bills opposed by ACLU-WV that achieved final passage were the anti-boycott bill (SB 262) and the so-called abortion reason ban, SB 468, which would prohibit abortions in cases where certain genetic abnormalities were detected in the fetus.

Despite the onslaught of attacks, ACLU-WV didn't just play defense, Baumwell said.

“We entered the 2022 Legislative Session with a renewed commitment to pushing bold, aggressive legislation that will substantially improve civil liberties in West Virginia,” he said.

Among those bills was SB 488, which would restore voting rights to people on probation and parole.

“These are people who work, pay taxes, and give back to their communities,” ACLU-WV Advocacy Specialist Dijon Stokes said. “There is no reason to deny them their constitutional



right to vote. In fact, we believe it's a form of taxation without representation."

Furthermore, voting is an integral part of civic engagement, a cornerstone of successful re-entry for justice-impacted people, Stokes said.

The bill received strong bipartisan support, thanks in large part to dogged advocacy from Stokes and the West Virginia Family of Convicted People. It passed the Senate Judiciary Committee and appeared to have the support to pass the Senate. Unfortunately, the bill was pulled because of internal political squabbles, denying some 10,000 West Virginians the right to vote for at least another year.

Other positive bills did pass with support from ACLU-WV. They include HB 4353, which should help bolster participation in local elections by aligning them with national elections; HB 4377, which improves the involuntary commitment process; HB 4373, which removed lifesaving fentanyl test strips from the definition of

prohibited drug paraphernalia, and SB 437, which streamlines and simplifies early release from parole.

Unfortunately, there is every reason to believe things will get worse next session. Potentially much worse.

The 2022 primary elections saw a bevy of more moderate Republicans swept out of office by more extreme Trump loyalists, some of whom very publicly espouse widely discredited conspiracy theories and bigoted rhetoric.

"We can expect to see a ramping up of efforts against people's freedoms, from attacks on LGBTQ+ kids to silencing discussions about race in the classroom and more," Baumwell said. "The good news is that ACLU-WV's staff is bigger than ever and our advocacy is stronger than ever."

"Come what may, we will be ready."

— BILLY WOLFE

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 do not reflect any specific issue area.

Methodology: Fourteen 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.

Grades are an imperfect measure of a legislator's commitment to civil liberties broadly. Grades can only reflect bills that are advanced to third reading. Grades also do not reflect that many steps that individual legislators take in the committee process, amendments that legislators offer, and other legislative actions.

House Bills Graded

HB 2257 - Extended supervision for drug offenders (ACLU Opposed)

HB 4004 - 15-week abortion ban (ACLU Opposed)

HB 4012 - Prohibits requiring proof of a Covid vaccination for certain access (ACLU Opposed)

HB 4293 - Prohibits distributing absentee ballot applications (ACLU Opposed)

HB 4320 - Declaring acquired immunity legally equal to vaccinated status (ACLU Opposed)

HB 4353 - Synchronizing local elections with state elections (ACLU Supported)

HB 4373 - Decriminalizing fentanyl test strips (ACLU Supported)

HB 4377 - Revising the involuntary commitment process (ACLU Supported)

HB 4522 - Expunging criminal records of people acquitted (ACLU Supported)

HCR 31 - Calling for an Article V Convention of the States (ACLU Opposed)

SB 262 - Punishing financial institutions for protected boycotts of energy companies (ACLU Opposed)

SB 437 - Allowing for early discharge of parole (ACLU Supported)

SB 468 - Abortion reason ban (ACLU Opposed)

SB 498 - Classroom censorship (ACLU Opposed)

Senate Bills Graded

HB 4012 - Prohibits requiring proof of a Covid vaccination for certain access (ACLU Opposed)

HB 4353 - Synchronizing local elections with state elections (ACLU Supported)

HB 4373 - Revising the involuntary commitment process (ACLU Supported)

HB 4522 - Expunging criminal records of people acquitted (ACLU Supported)

SB 29 - Adding a fee to criminal bonds (ACLU Opposed)

SB 216 - Expanding student journalist protections (ACLU Supported)

SB 232 - Expanding time a person can be incarcerated for third felonies (ACLU Opposed)

SB 262 - Punishing financial institutions for protected boycotts of energy companies (ACLU Opposed)

SB 437 - Allowing for early discharge of parole (ACLU Supported)

SB 466 - Limiting lawsuits that inmates can bring (ACLU Opposed)

SB 468 - Abortion reason ban (ACLU Opposed)

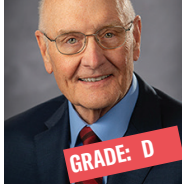
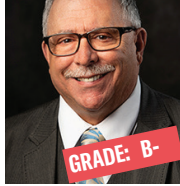
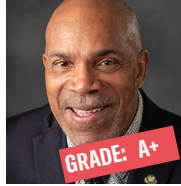
SB 498 - Classroom censorship (ACLU Opposed)

SB 728 - Creating an annual fee for some people on extended supervision (ACLU Opposed)

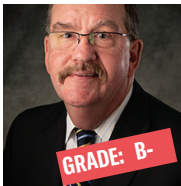
WEST VIRGINIA SENATE



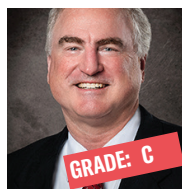
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Craig Blair (R-Berkeley)
Donna J. Boley (R-Pleasants)



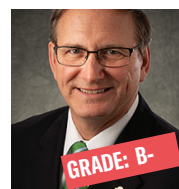
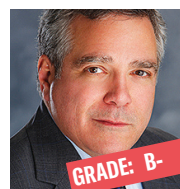
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Hannah Geffert (D-Berkeley)
Amy Grady (R-Mason)



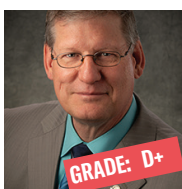
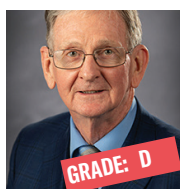
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Richard Lindsay (D-Kanawha)
Mike Maroney (R-Marshall)



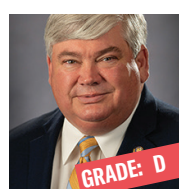
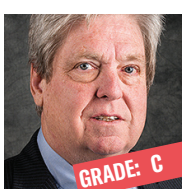
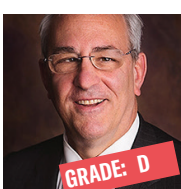
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Ron Stollings (D-Boone)



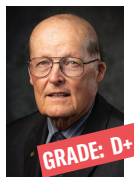
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Dave Sypolt (R-Preston)
Tom Takubo (R-Kanawha)
Eric Tarr (R-Putnam)



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Ryan Weld (R-Brooke)
Mike Woelfel (D-Cabell)
Jack Woodrum (R-Summers)

HOUSE OF DELEGATES

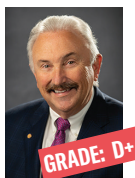
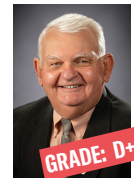
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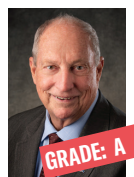
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Adam Burkhammer (R-Lewis)



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Wayne Clark (R-Jefferson)
Roger Conley (R-Wood)
Roy Cooper (R-Summers)
Vernon Criss (R-Wood)



Kathie Hess Crouse (R-Putnam)
Mark Dean (R-Mingo)
Phillip Diserio (D-Brooke)
John Doyle (D-Jefferson)
Joe Ellington (R-Mercer)



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



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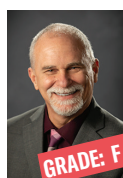
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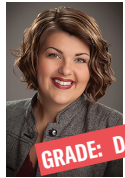
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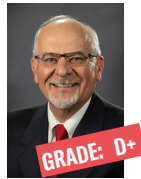
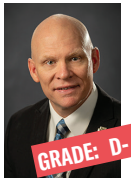
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David Kelly (R-Doddridge)



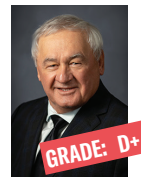
HOUSE OF DELEGATES



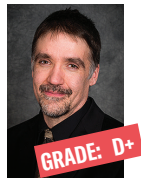
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Shannon Kimes (R-Wood)
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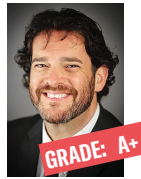
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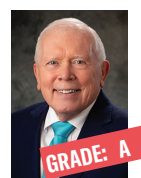
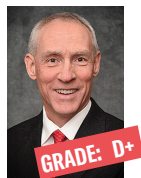
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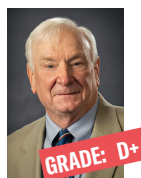
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Chris Phillips (R-Barbour)



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Chris Pritt (R-Kanawha)
Mike Pushkin (D-Kanawha)
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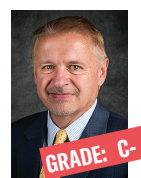
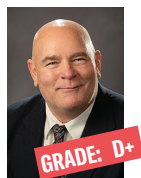
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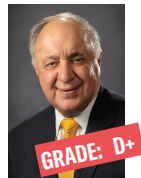
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Cody Thompson (D-Randolph)
Christopher W. Toney (R-Raleigh)
Heather Tully (R-Nicholas)



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)





Illustrations by Jamie Miller

HIV SOS

One year later, West Virginia has yet to take any meaningful steps to address the nation's 'most concerning outbreak.'

When the doctor came in to read the results of April Dawn's HIV test, she said she didn't want to know.

"I said, 'I already know that I have it. It's inevitable that I got it. There's no way that I can't have it because I've been using after everybody,'" Dawn said.

Two months before her hospital visit, Charleston forced its sterile syringe program to close. People didn't need to share needles when it was operational. Now, Dawn said sharing became the norm,

"All these people just started popping up with [HIV]," she said.

Dawn had trouble quitting heroin, but, she began to take medication for HIV as soon as she learned she was positive. Despite her own internal conflict about using drugs, she split her time on the streets between looking for and using drugs and helping steer fellow users away from the virus.

"I was out there in the streets, killing people's buzzes," she said.

Equipped with her own syringes that she refused to share, Dawn carried HIV test kits and a message: get tested before it's too late. One time, when she and a friend were using drugs together, she convinced him to take a rapid HIV test. She swabbed his mouth and they waited in silence. After a few moments, "He looked at me with this look in his face and just said, 'I got it, don't I?' I was like, 'Yeah, but it's going to be alright.'"

Dawn and her friend resorted to sharing syringes after the city's former mayor, Danny Jones, forced the local health department to shut down its sterile syringe program. They are two of 137

people in the county to test positive since the program shuttered in 2018.

Stigma was the key component in shutting down the program. Jones leveraged stereotypes about unsheltered people and people who inject drugs interchangeably on his AM talk radio show. On air and in the press, he called the program “a needle mill for junkies,” accusing it of “enabling” drug use but offered no evidence for the claim. This disinformation campaign came at a time when Jones was overseeing the \$100 million renovation of the Civic Center across the street from the health department where the syringe program operated. Unshy about the connection, he held up pictures of the two buildings at a public meeting, saying, “We can have this. Or, we can have this.”

In the years following the shutdown, Charleston experienced what the U.S. Centers for Disease Control and Prevention dubbed the “most concerning HIV outbreak in the nation.” The transmission rate for Charleston and its surrounding counties would go on to be twice as high as that of New York City.

The shutdown created a void at a time when rural HIV rates were skyrocketing from injection drug use. To fill the gap, a volunteer-run program called SOAR (Solutions Oriented Addiction Recovery) began distributing sterile syringes – a practice the CDC says cuts HIV transmission rates in half. But the City of Charleston shut that program down, too.

ACLU-WV represented SOAR after sensationalist media reports accused the organization of breaking state and local laws, an allegation city officials later confirmed was inaccurate.

Rather than heed the guidance of the nation’s top experts in infectious diseases, the city later passed an ordinance aimed at criminalizing many syringe distribution programs. All but one council member voted for the ordinance. The city doubled down on the plan that failed them three years prior.

After years of disregarding federal guidelines and watching HIV rates increase, the state requested a CDC emergency response team to assess the outbreak. The CDC’s top recommendation: increase access to “sterile syringes and other injection equipment through comprehensive harm reduction services.” CDC’s second recommendation was to increase HIV testing through “non-traditional outreach strategies,” such as “distributing HIV self-tests through community outreach.”

Dawn was following CDC recommendations more closely than her elected leaders without even knowing it.

“I was going around trap houses giving out boxes of HIV tests,” she said.

After she found out she was positive, she became motivated to help others. Amid a culture of stigma, Dawn prioritized caring for people over the opinions of others.

The lack of compassion and regard for epidemiological expertise extended beyond elected officials. The CDC assessment found healthcare providers in the area, too, were fostering a culture of stigma.

“The most prominent barrier to medical services among people who use drugs was their strong negative views towards hospitals due to previous experiences of injection drug use stigma and discrimination by hospital providers.”

The report was in step with Dawn’s lived experiences.

“They treat you like shit,” she said.

She recalled an episode where she was brought to the hospital via ambulance: “There was a nurse behind me. And she asked me if I had any health issues. I told her I was positive. The nurse yelled to everyone in ear shot, ‘This one’s got HIV! Be careful!’”

Robin Pollini, a West Virginia University epidemiologist who has personally tested many of the people in the state living with HIV, said the lack of a coordinated response statewide is rooted in stigma.

“People are very reluctant to engage in the healthcare system, almost at all, because they, in the past, have been treated very poorly or have reason to expect that they will be treated very poorly.”

Pollini said when health programs are designed for a group without that group’s input, the inevitable result is failure.

“We’ve learned that these are bad people doing a bad thing. And so, they get treated differently,” Pollini said.

Many experts recognize the most effective way to engage such a stigmatized population is through harm reduction: the practice of meeting people where they are, talking with them about their own desired health outcomes and providing them what they need to be safe: clean supplies for using drugs, medical care and, above all, compassion.

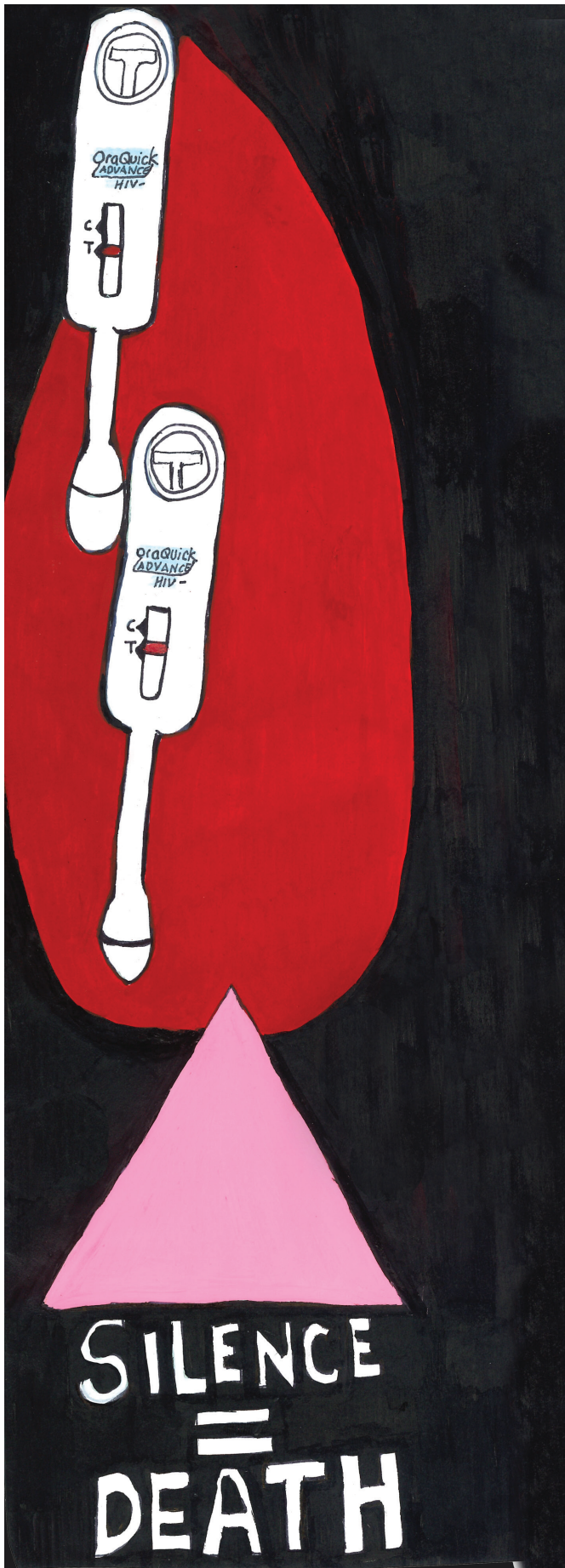
The origin story of HIV, more than any other infectious disease, is rooted in stigma. Homophobia was so commonplace that then-President of the United States Ronald Reagan would not even publicly acknowledge the existence of the disease for the first four years of the epidemic (although his press secretary liked to openly joke about it in front of reporters.)

ACLU-WV board member Jeanne Peters remembers those days all too well. Peters was part of ACT UP (AIDS Coalition to Unleash Power) and sees many similarities to today’s epidemic.

“Today, as in the 1980s, people who are affected by HIV are predominantly members of marginalized communities and therefore more likely to be overlooked,” she said. “As long as HIV/AIDS affects people at the margins, it will remain a subject government officials can ignore. Tragically, elected officials respond most rapidly to those who can help them secure and retain their offices. And people with HIV are largely not big money donors.”

Living with AIDS at that time meant abuse and violence. For many people from small towns, it also meant not being able to come home to see your family in your final days. In 1987, Mike Sisco, a man living with AIDS, became the object of national attention because he went for a swim in the community pool in his hometown of Williamson, West Virginia.

After testing positive, Sisco moved back to his family’s home. Sitting indoors without air conditioning on a 97-degree summer day, one of his sisters suggested they go swimming. In an interview at the time, Sisco said as soon as he set foot in the water, the pool emptied out with people running away, “like in those science fiction movies



where Godzilla walks into the street.” Later that day, the pool was shut down, drained and disinfected. The Associated Press picked up the story: “City pool closed after swim by AIDS victim.”

The ignorance and homophobia on display drew the attention of Oprah Winfrey. Her show traveled to Williamson with an HIV expert from CDC to host a townhall-style discussion about HIV. Sisco, living with a terminal illness, sat on national television while his neighbors lobbed insults and slurs at him. One especially enraged man drew resounding applause when he stood up, began pointing at Sisco and exclaimed, “This is a disease of nature! Nature will take care of something that is wrong. It’ll eradicate it. If you put them all together without any women, they would be extinct from the face of the earth!”

Twenty-eight years after Sisco’s death, that same individual is now a Charleston-based activist who has shifted his anger from gay men to another group disproportionately affected by HIV: people who use drugs. He is the moderator of a private, 4,500-person social media group that posts pictures of unsuspecting people on the streets for its members to ridicule.

Dr. Christine Teague, who heads an HIV treatment and prevention taskforce with the Ryan White Program at Charleston Area Medical Center, says the link between homophobia and a hatred for people who use drugs makes tackling HIV in the 21st century even more complicated.

“People still tend to associate HIV just with gay sex. The stigma still plays out today even in the injection drug-use population,” she said, adding that stigma will not subside until puritanical attitudes about sex do.

Her program has had to integrate with other clinics so that people do not associate one location with being “the HIV office” and will be more likely to get treatment. People fear going to that location, Teague said, and being labeled as HIV-positive, gay, a drug-user, or some mixture of the three.

“I have said for 30 years that stigma is our biggest barrier. Nothing has really changed. I mean, the only thing you can do is just talk to people about it,” she said.

Pollini, the WVU epidemiologist, says this stigma has come full circle with people contracting HIV from drug use.

The burden of breaking through HIV stigma and providing prevention and treatment has fallen on underfunded and overregulated harm reduction programs and nonprofits, she said. Without support from state, county, and municipal governments, these programs cannot be expected to make headway in the battle against HIV.

“West Virginia is an example where we know what works. We can lead with compassion and empathy and try to make it as easy as possible to provide these services. Or, we can lead with policies that seek to penalize people for their drug use.”

— KYLE VASS

GIVE ME SHELTER

The number of unhoused people has exploded over the past six years. Rather than steer new federal funding toward addressing the root cause, officials are moving to criminalize poverty instead.

Dominique Miller is trying

to figure out how to enter an abandoned factory on an overcast December afternoon in Huntington. A cold snap has hit and the forecast calls for snow. The most obvious entrance, a giant barn door, is shut tight.

“A lot of times they’ll find a way to lock this door because the police have been cracking down on this property,” he says.

Miller is looking for unhoused people to give them food, clothing and an invitation to find housing.

Like many people experiencing homelessness in rural America, the people who stay here have two options – follow the hard and fast rules of the city’s one homeless shelter, or break the law by sleeping in an abandoned property to survive the winter. Many tried the first option, got kicked out and now resort to the second.

He reaches through a gap between the frame and the door to undo a strap keeping it shut. “We’re in.”

Over piles of rubble, he heads down a hallway that feels like it could give way at any moment. Miller says it’s safer to walk on the edges, closer to walls. Despite the structure, there are signs of life: a half-finished bottle of Squirt, playing cards spread out on the floor, and some age-worn pictures.

Thirty minutes in, he still hasn’t found what he came here for:

people.

“Our folks are always on the move because the police will run them out of bandos (abandoned buildings),” Miller says.

In a corner, he discovers something he’s never noticed in his many times exploring this building – a door hiding a makeshift bedroom.

“It looks like somebody has been here recently,” he says softly. He leaves some snacks, hand warmers and his card. Then, he sets off into the night to visit more buildings.

Miller is doing what’s called street outreach. From abandoned buildings in the city to hidden encampments in wooded areas, he’s checking on people, making sure they’re okay. Only then does he try to connect them with housing through his employer, Harmony House.

In addition to street outreach, Harmony House also has a day shelter: a place for unsheltered people to go during the day. There they can get medical care, laundry services and supplies ranging from fresh socks to a hot cup of coffee and occasionally a warm meal. The organization’s main goal is connecting people with housing, either by getting them directly into an affordable apartment or letting them stay in transitional, temporary arrangements behind the day shelter.

Harmony House is partially funded by the City of Huntington,



Dominique Miller searches an abandoned factory for unsheltered people while conducting street outreach. Opposite page: A worker at Harmony House in Huntington serves chili. **Photos by Kyle Vass**

which also has a food bank and an overnight shelter. But most places in West Virginia lack this robust network of services and outreach workers.

While the governor's office, serving as a flow-through for CARES funding, has released \$7.2 million of federal money to go toward food pantries and homeless shelters, no proactive steps have been taken by the current administration to address the root cause of homelessness.

In fact, under **Gov. Jim Justice**, the Interagency Council on Homelessness — a working group that for three prior administrations brought stakeholders together from across the state to address the issue — was discontinued, as reported last year by Mountain State Spotlight. The initiative, which saw a 66 percent decrease in homelessness over ten years, disappeared overnight when Justice took office. Since his inauguration, the report says, while the number of people who don't have a home has decreased by 3 percent, the number of people who are unsheltered — experiencing homelessness and living on the streets — has doubled.

Eli Baumwell, ACLU-WV Advocacy Director, said that, with federal CARES Act funding flowing to cities, there has never been a better time to act.

"Cities have an unprecedented opportunity to dedicate resources to the people who most need them in a way that reduces barriers to accessing basic needs instead of creating new barriers," he said.

Huntington's early adoption of street outreach and having a low-barrier day shelter are rarities among major cities in West Virginia. Charleston, the state's capital, lacks such a day shelter. It also didn't begin using street outreach until six years ago, according to **Traci Strickland** of the Kanawha Valley Collective.

"In 2016, the City of Charleston funded Prestera (a behavioral health organization) to hire a street outreach worker," she says.

Other organizations followed suit and now there are six full-time outreach workers. Strickland says, "We've gone from zero street outreach to having at least one person out seven days a week. It's gotten really big."

From her office in the basement of a church on Charleston's East End, she speaks quietly about the history of services and what is being done to address gaps. Clients trickle in and out. In this office, people apply for housing assistance. Across the hall, they can visit a storage facility operated by the Religious Coalition for Community Renewal, a secure place to stash belongings.

According to **Kevin Jones**, president of RCCR, documents like birth certificates, social security cards and IDs are easily lost when someone is experiencing homelessness.

"The whole goal is getting people rehoused," he said.

But Strickland says a larger issue undermines these efforts: a widespread belief in Charleston that unsheltered people ought to be ridiculed, arrested or even attacked.

"In Charleston, it's all about harassing people who are experiencing homelessness. There was a guy that walked in right before you got here. His picture is plastered on Facebook, multiple times a week. In the picture, he's sitting on a park bench, not causing trouble. He's just visible. And, if you're experiencing homelessness and are visible, it's treated like a crime," Strickland says. "It puts a target on your back."



When RCCR applied for American Rescue Plan Act funding to develop a day shelter on Charleston's West Side, local business owners wrote a six-page letter opposing the plan and calling on the city to deny the request.

The letter, which Jones says contained misinformation, gathered 36 signatures. RCCR then held two public meetings to answer questions about the plan. Instead, citizens, business owners and city council members flooded them with criticisms — mostly variations on the need to protect children from unsheltered people and concern about property values.

Not long after the second meeting, RCCR pulled its application. Jones says they still plan to expand services on the West Side eventually but will hold off for now.

Charleston does have some services for those who know how to find them. For outreach workers, that means walking the streets to meet and keep up with people who are not only on the move but may be unaware of, or unable to physically get to, organizations that could help them.

Kendra Preston, an outreach worker for KVC, doesn't require much to get her job done: just a phone and a knack for problem solving. It's not easy to keep up with how many people she helps in a four-hour window.

She's able to help one man figure out how much rent his landlord needs to keep from filing an eviction. Another is being denied entry to a shelter because he needs a COVID test. So, she takes him to MedExpress, where staff determine he is suffering from complications related to a stroke. He's taken via ambulance to a hospital, something that would have never happened without Preston checking in on him.

One person she is determined to help before the end of the day is **Vincent**, who Preston has known for years. Vincent says he wants to quit using drugs but his residential treatment facility requires a chest X-ray. He listed tuberculosis on his intake form and, as such, they require proof of recovery. Preston explains treatment facilities often reject people with health conditions because of liability.

Moments later, four of us — Vincent's friend decided to come along for a ride — pile into a car and head to a hospital to retrieve a copy of his X-ray. On the way, Preston tells Vincent's friend she can help him replace his lost driver's license. They exchange contact information. We return to the underpass that has become Preston's makeshift war room for the day. As she carries on, determined to untie as many knots in people's lives as she can, I speak with a man who tells me he's chosen to camp miles outside of the city. He says both shelters are worse than living outside.

At one facility, he says he was made to attend a prayer service before every meal — which, he says he could tolerate. But the

dealbreaker for him was being forced to clean toilets while staff made jokes.

“They kept talking about stickies,” he says, referring to fecal matter stuck to the toilet bowls. “One guy would laugh and say things like ‘I left some stickies in there for you!’ It was disgusting.”

At the other shelter, people having mental health crises would scream all night, keeping him from sleeping.

After finishing with Preston, Vincent approaches with a folded piece of paper. It’s a trespassing ticket he got last week for sitting on the sidewalk with his belongings. Preston says there’s been an uptick in citations for sitting outside. When I ask Vincent about shelter options, he says he can’t do shelters. Last time, he says, his things got stolen.

Being unsheltered in Charleston can also mean police harassment. Sometimes that means fines. Sometimes it means violence.

One particularly gruesome incident from 2018 came to light last year when a settlement came before Charleston City Council detailing a police officer unleashing a titanium-toothed K-9 on an unarmed man who was staying in an abandoned property.

According to a complaint filed in federal court, Charleston Police Officer **Anthony Gaylor** retrieved the dog from the back seat of his vehicle. The complaint alleges Gaylor ignored department policy, as the man hadn’t engaged in any sort of physical resistance, the policy requirement for deploying a dog on someone. The person had simply “resisted” by not immediately coming out of a makeshift crawlspace.

According to body camera footage, Officer Gaylor, upon learning the man was hiding, shouted to him, “Come down or I’ll send the dog in and you’re going to get bit.” His colleague who was also on the scene, Officer McClure quipped, “She has titanium teeth. Crunch. Crunch.”

By the time Gaylor issued his “last warning” to come out, to which the man in hiding exclaimed, “I’m coming out,” Gaylor had already let the leash go. For the next two minutes, audio from the camera is a chaotic blend of screaming and Gaylor

unsuccessfully commanding the dog to let go. After having his right leg mauled, Barker was taken to the hospital for a “baseball-size wound,” according to court documents.

Court documents also note that, while he stayed at the hospital for 20 days undergoing multiple procedures prior to discharge, he was unable to return for follow-up surgery because he had no way of getting there.

Another violent incident occurred in May 2021, six months after the murder of George Floyd sparked a global movement. Charleston officers shot a Black man in the back who was attempting to walk back to the abandoned house where he was staying.

In addition to private citizens and law enforcement, politicians at all levels of government in Charleston — from members of the city council up to the Governor himself — have increasingly lobbied for restricting access to services for unsheltered people.

In 2021, Charleston City Council proposed an ordinance that would’ve made it a crime to sleep outside in public. Not only was the measure supported by a few council members, the director of an overnight shelter wrote an opinion piece supporting it. The bill, along with one that would’ve made panhandling illegal, failed to pass following an out-cry from ACLU-WV and its supporters.

Efforts to criminalize homelessness in Charleston have also targeted organizations offering services to unhoused people. One week after RCCR pulled its request for ARPA funding amid community backlash, House Minority Leader **Doug Skaff**, a Democrat representing Charleston in the State Legislature, proposed a bill prohibiting feeding programs from operating within 1,500 feet of a school or childcare center.

ACLU-WV requested a public hearing on the bill. The turnout



It’s hard to keep track of how many people Kendra Preston, a social worker with the Kanawha Valley Collective, helps in a single day with just a cell phone.
Photo by Kyle Vass

saw business owners and parents from a downtown private school pitted against clergy and advocates. Ultimately the bill, which would have shuttered service providers across the state, failed.

Service providers that work with unsheltered people must be able to connect with them. That's the power of street outreach, according to Strickland, who tries to "meet people where they are at: physically, mentally and spiritually."

Charleston has seen an increase in street outreach in recent years. But as service providers there move closer toward best practices, the state's third-largest city tried something different: moving the services miles away from its unsheltered population.

Last year, Bartlett House, Morgantown's only shelter, moved four miles away from downtown into a building atop a high hill that had to be annexed into the city ahead of the move.

The old location was an easy walk for people who rely on feeding programs and the town's free health clinic. But, being that close to services requires a centralized location. Enter the familiar ire of business owners.

In a 2019 Morgantown Magazine article, "Compassion & Commerce: Can Morgantown do both?" a coffee shop owner said he considered hiring a bouncer to deal with the issue. The owner of an adjacent comic book shop stuck to name calling: "junkies" and "bums" were, in part, why he moved his business out of downtown.

The article revealed that relocating services was the brain-child of the Hazel Ruby McQuain charitable trust, a multi-million dollar charity, and Mark Nesselroad, a commercial developer. Bartlett House's old location, after all, was located 500 feet from a \$4.1 million park — the Hazel Ruby McQuain Park, to be exact.

One local TV news report from the time referred to the park as "somewhat of a hot spot for the homeless." The same report included then-city manager, Paul Brake, assuring citizens that an added police presence would make it so "that type of element" wouldn't want to be at the park.

When Nesselroad and the Hazel Ruby McQuain trust rolled out their plan last year to consolidate service providers into a single, albeit out-of-the-way, location, they had already purchased the new location for Bartlett House. Gov. Jim Justice approved \$3.5 million in CARES funding for renovating the new location — a Ramada Inn that shuttered in 2017. Today, a for-sale sign featuring Nesselroad's Black Diamond Realty hangs off the old building.

On a cold evening in April, four people, all visible from streets and alleys while walking through Morgantown, said they would sleep outside in freezing temperatures rather than catch the bus or walk to the new location. But distance was just one reason they refused to stay.

One woman, who asked to not be named, was standing under the awning of a closed business on Pleasant Street roughly 20 feet uphill from the old Bartlett House location. She said no one had approached her to talk about her situation in over a year of living on the streets — a comment echoed by every person I found tucked away in an awning or taking shelter under a bridge.

When I asked what she needed the most right now, she said a blanket. When I asked her if she had ever stayed at the shelter she began crying. Struggling to get speak through her tears she said a single word: "Mean."

Two others, who also asked their names not be used, recalled experiences with abusive staff members at the shelter and being ridiculed after their belongings went missing. They also said they were unable to sleep comfortably out of fear that others might harm them — a fear amplified by a recent stabbing at the shelter.

Bartlett House, which also operates an on-site warming shelter during cold months, has come up in public meetings for years. Activists and advocates have publicly called for an investigation.

Mollie Kennedy, ACLU-WV community outreach director, has attended Morgantown City Council meetings religiously, in addition to working with numerous other stakeholders to address homelessness there.

"In Morgantown we have a compounded problem," she told council at a March 22 meeting. "Unsheltered people do not trust and are afraid of the only shelter they have available to them. That left a lot of people literally out in the cold and freezing temperatures this winter and that problem has been exacerbated by the city's decisions related to how you handle encounters and policy related to unsheltered individuals."

The absence of a centrally located shelter in Morgantown puts a strain on service providers who try to keep track of the people they serve. Complicating matters, there is currently only one full-time outreach worker in Morgantown who deals exclusively with unsheltered people.

Ryan Fieldman, the outreach worker, is often the first point of contact for police when they try to assist people in getting housed. Fieldman also responds to non-police complaints from residents regarding homelessness and connects with an ever-shifting population of homeless people. And, he's responsible for five counties.

During the day, many of his clients hang out at the Friendship Room in downtown Morgantown. Unlike Charleston, Morgantown has a day shelter where people are allowed to simply exist. Here, staff connect clients with various housing and healthcare services. They convene as early as 8 a.m. to get inside from a night spent in the cold and warm up while drinking coffee and chatting.

The Friendship Room is a place Fieldman can consistently find some of the people he serves, but its future hangs in the balance. Milan Puskar Health Right, the organization that oversees the day shelter and operates a free health clinic next door, has been offered a large sum of COVID relief money to leave downtown and move next to the new Bartlett House location. A decision on where the Friendship Room will move has not been made.

Moving the health clinic and the day shelter will consume \$800,000 of the \$1.4 million earmarked for serving unhoused people from the city's American Rescue Plan Act funding. Charleston's plan for ARPA spending on programs for homelessness (not including the grants that were pulled due to community pushback) is currently \$2.24 million. Huntington plans to spend \$2.44 million from ARPA's HOPE program on such programs.

If 2021 was the year of flouting expert advice on harm reduction across the state, 2022 has been the year of backwards thinking on homelessness. Even Huntington, a city that has garnered a reputation for embracing progress and evidence-based solutions to systemic problems like the overdose crisis, recently passed a bill to tackle the alleged issue of people being discharged into the streets when kicked out of sober living homes and adding to the city's unsheltered population. Despite no evidence to support this allegation, it has made for a concise election year talking point. The council vote to pass the ordinance was unanimous. A statewide version of the bill (which was later revealed to have been modeled after Huntington's proposed legislation) made headway in the 2022 Legislative Session in both the House of Delegates and Senate but ultimately failed.

As for legislation aimed at helping people experiencing

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homelessness, four bills (including a proposal to give IDs to unsheltered people) were introduced. None advanced through even a single house.

Perhaps the most notable statement to come out of the state-house on homelessness over the past year was Gov. Justice using his COVID briefing to insult Charleston Mayor Amy Goodwin for requesting a special legislative session to deal with homelessness. Justice made headlines not only for publicly denying her request but for referring to her as “Amy Baby,” adding the sexist, diminutive phrase to an ever-growing list of Justice-isms.

Just as the state has failed to address the ongoing HIV epidemic, it lacks a coordinated plan on homelessness. Beyond having no plan, West Virginia is the setting for countless incidents of harassment facing homeless people.

In 2020, ACLU-WV filed suit in federal court against the City of Wheeling after the city destroyed at least one encampment where unhoused people were staying. Threatening to destroy more encampments at the height of a global pandemic, ACLU-WV intervened on behalf of the unhoused community.

In sitting idly by as the number of people living on the streets continues to rise, the state is failing all West Virginians, housed and unhoused alike. Until people experiencing homelessness are housed or, at the very least, kept free from harassment, the issue of homelessness in the state will only continue to grow.

— KYLE VASS



More Passionate Advocates Join Staff

Thanks to generous donors and an increase in support from ACLU National, ACLU-WV's staff has experienced dramatic growth.

In five years, the staff grew 275 percent, from just four people in summer 2017 to 14 people now. From 2021 to 2022 alone, four new positions were added and filled – executive assistant, staff attorney, finance director, and legal investigator.

“These new positions will help streamline the work we’re already doing and allow us to increase our advocacy across the state,” Executive Director Joseph Cohen said.

Each of these staffers was brought to this work by different circumstances. Read on for their stories.



Zaki Michaels, Carrie Ware, Jamie Miller and Nick Ward joined the growing ACLU-WV staff over the past year. The staff has increased from just four people in summer 2017 to 14 now.

Photo by Billy Wolfe

ZAKI MICHAELS

After finishing an 800-mile AIDS charity bike ride a day early, Adel Fahim decided to rebook his flight back home to Los Angeles.

Had he finished when expected, Fahim would have been a passenger on Flight 175, the second plane to strike the World Trade Center towers on Sept. 11, 2001.

"I remember the day after he got home, seeing him holding a ticket in his hands and watching the news as the towers fell," said his son, Zaki Michaels. "A couple of hours later, men arrived at our door and took him away for questioning.

"He was gone for days and we didn't know where he was."

Zaki, who joined the ACLU-WV staff in 2021, said the rampant bigotry that swept the nation following the attacks is still difficult to discuss.

"It wasn't just Islamophobia -- my family is Coptic Orthodox," Zaki said. "It was all-Middle-Eastern-looking-people phobia."

Not long after that, a family friend who owned a Middle Eastern food market was shot and killed in what Zaki said was an obvious hate crime. His father then decided they would change their last name to sound less Middle Eastern.

"It really bothered me growing up, even more than being trans," Zaki said. "I was told not to speak in Arabic and erase a part of who I am for my own safety."

That's one reason Zaki loves being part of the team.

"I've never been in a job like this before where I can honestly say I feel like I can be myself 100 percent," he said.

As legal investigator, Zaki reviews nearly every request for legal assistance that comes to ACLU-WV. He works closely with the legal team to build cases and represent our clients in their fight for justice.

Zaki's favorite part of the job: "How much of the work isn't public-facing, how much of the work takes place behind the scenes. It shows me that we have people who care, that it's not just about clout."

JAMIE MILLER

With tears in her eyes, Jamie Miller watched Dr. Christine Blasey Ford describe her allegations against Brett Kavanaugh during Kavanaugh's confirmation hearings for the U.S. Supreme Court.

Although Jamie had been politically engaged for decades, she had never spoken about the abortion she had as a teen, following a sexual assault at a party. Seeing Ford's bravery inspired action.

Soon Jamie was telling her story on a national stage with ACLU. It was one of several times she gave her time to the organization -- she has also worked as a legal observer at events, traveled to Washington, D.C. to advocate for the Pregnant Workers' Fairness Act, donated her art to fund-raisers, and more.

Her activism began years earlier, during her time as a student at Marshall University.

"I think the first time I remember hearing about the ACLU was when we blocked the highway in Huntington over Operation Desert Storm in 1991," she said. "One of the organizers told us we would contact the ACLU if we were arrested."

Jamie also regularly gives her time to the Women's Health Center of West Virginia, the state's only abortion provider. She uses an umbrella to shield patients from bullies who scream at them and try to record their faces. She's endured abuses for her volunteerism, including being followed and having her personal information posted online.

But she said she wouldn't do anything differently.

"There are so many injustices in our state, and so many groups that are under attack constantly," she said. "I feel like if there is anything I can do to help at all, then I should do that rather than being complacent."

Jamie's favorite part of the job: "The positivity and



Left: Zaki Michaels joined the staff after moving to West Virginia with his partner from Los Angeles.

(Billy Wolfe photo)

Middle: Nick Ward is ACLU-WV's new staff attorney.

(Kyle Vass photo) Jamie Miller blocks traffic in Huntington to protest Operation Desert Storm minutes before being arrested in 1991. **(courtesy photo)**

Right: Carrie Ware dons a "Narcans Saves Lives" shirt. **(Kyle Vass photo)**

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the emphasis on staff members' wellbeing. We deal with a lot of sadness, but it's the most positive work environment I've ever had."

NICK WARD

Nick Ward was driving home from school when he noticed a car crash on the highway. He didn't think much of it at the time, but that crash would significantly impact the rest of his life.

"It turns out it was my dad involved in that accident," said Nick, who joined the ACLU-WV staff in early 2022 as a staff attorney. "He was intoxicated and driving, and someone was killed. It was about a week before my 17th birthday."

Nick's father was charged with second degree murder, but was later convicted on a lesser charge. Nevertheless, his dad wound up serving nearly seven years in prison. Nick and his younger siblings missed out on countless experiences with their father.

"He came out a very different person," Nick said. "I think that prison only made his issues worse."

The incident gave Nick firsthand experience with how America's system of incarceration hurts families and communities. He cites the experience as the chief reason he went to law school to advocate for West Virginians, especially those impacted by the criminal legal system.

"I spent time interning and later working in policy on Capitol Hill and the longer I was there, the more I realized

I wasn't helping the way I wanted to," he said.

So, the Williamson native moved back to the state he loves to take a job with the Kanawha County Public Defender's Office.

But he had his eyes on another position.

"It's been my dream to work for the ACLU since law school. I actually got into the habit of refreshing the employment opportunities section of the ACLU-WV's website at least once or twice a day," he said. "This practice went on for years!"

"Fast forward a few years and I am traveling back to Charleston with my partner after attending a concert in Columbus. While we were driving I decided to randomly check the employment section and to my surprise, I saw a job posting for an open Staff Attorney position," he continued.

"It was like the planets had aligned. We were only an hour outside of Charleston, but I had my partner pull the car over at the next rest stop just so I could submit my application."

Nick's favorite part of the job: "I have never liked bullies, and this organization gives you the opportunity to stand up to them. Being a litigator allows me to advocate for our clients in and outside the courtroom."

CARRIE WARE

After years of searching, Carrie Ware has finally found a faith community that fits her perfectly.

Carrie grew up in a conservative church in north-central West Virginia. One Sunday when she was about 12 years old, a biracial couple came to services.

“No one spoke to them,” she said. “I couldn’t believe how they were treated, and it resulted in a very tense, dramatic discussion between my stepdad and me.”

That’s when she began to question many of the views of those around her.

Over the years, Carrie tried her hand at a few different professions and more than a few different churches. She noticed a pattern in both settings of discrimination, particularly sex-based discrimination.

“My view of faith is that we should love people, not judge them but help them,” she said.

When her son’s best friend’s father fatally overdosed on heroin, it changed everything for Carrie.

“I began to ask myself what I could have done differently,” she said. “I realized I had been part of the problem, part of the stigma against people who use drugs.”

Carrie, who joined ACLU-WV as finance director in March 2022, decided to pour herself into West Virginia’s recovery and harm reduction communities. She took to the streets with activists and social workers, handing out care packages including clean needles. Her church, St. Peter’s Episcopal in Huntington, got involved, too, becoming a sort of resource hub.

“You can read books, sit in classes and learn what you

think you need to know, but until you are on the street you don’t know it really,” she said.

She carries Narcan, the lifesaving drug that can instantly reverse heroin overdoses, everywhere she goes.

“My entire family are now certified Narcan instructors,” she said with pride.

Sadly, some of her most important work has been hampered after the passage of a 2021 state law that all but criminalized harm reduction programs involving needle distribution.

“I consider it a violation of my religious freedom,” she said. “To practice my faith, I have to love others, help others, and not judge them. This law keeps me from helping people who need it most.”

But she and fellow activists continue to hand out care bags containing hygiene kits, Narcan, snacks, socks, hats, gloves, hand warmers, and blankets. In summer months, they switch out the winter items for sunscreen and bug repellent. They also conduct Narcan trainings for area businesses and help people living with addiction manage a community garden.

“Our mission is to treat every individual with compassion and dignity so that they can realize their worth.”

Carrie’s favorite part of the job: “The group chat! It’s amazing to get to share in so much knowledge with my coworkers.” — BILLY WOLFE





Holding those in power to account

Kyle Vass has never been a fan of bullies.

In a state like West Virginia that is so often the target of ridicule from the outside world, principles of standing up for the marginalized, the oppressed, and the bullied can run deep.

Vass, who was born in Minnesota but raised in Cabell County, brings those principles to life in his work as an investigative reporter. Reading his website, Dragline.org, or his work on West Virginia Public Broadcasting or the Guardian U.S., you'd never know Vass lacks formal journalism training.

Vass's Dragline has broken the news that a former state delegate participated in the Jan. 6, 2020 insurrection. His stories have been featured in lawsuits against the state Department of Corrections for the deadly spread of COVID-19 in overcrowded jails. It has taken on the government and the media alike.

"I try to do everything I can to stop people from punching down on others," Vass said.

When he began Dragline in 2020, he reached out to an old high school friend turned Columbia University graduate and lauded journalist, Lacey Johnson, for help.

"I was surprised because up until that point I had never heard Kyle voice any interest in journalism," Johnson said. "I was really excited to do it because I'm a total traitor. I left the state to get my education and never came back, largely because it's a shitty place to work as a journalist. The newspapers pay garbage, there's a weak journalism presence in the state. I feel bad about that because I know how badly West Virginia needs journalism."

"There's so much corruption there," Johnson continued. "I bailed... seeing as Kyle wanted to do this, for me, was an opportunity to give back from afar."

When ACLU-WV Communications Director Billy Wolfe approached Vass last summer to come on board as an investigative reporter, Vass was at first skeptical.

"I thought that didn't sound like reporting," he said. "But really, I didn't know what I was talking about when I said that. I didn't know that the ACLU of Michigan had a history of investigative reporters."

ACLU affiliates have a growing realization of the impact investigative journalists bring to accountability of public officials, and shedding light on gross harms on marginalized communities. One such example aside from Vass is ACLU-MI's Curt Guyette, an investigative journalist who broke the story of the Flint Water Crisis in 2015.

Wolfe, a former newspaper reporter and editor, said he got the idea of bringing on an investigative reporter during a peer onboarding experience with Seonju Bickley, ACLU-Alabama communications director.

"Our small legal team cannot take on every single case of abuse and neglect that happens in our jails and prisons," Wolfe said, "but I realized we could tell some of these people's stories, that we could still make sure the public and policymakers hear about what's happening to them."

Following a report from the Reuter's News Agency, which found West Virginia regional jails were some of the deadliest in the nation, the need to tell those stories only grew deeper.

Once funding was approved for the position, Wolfe said he knew who he wanted for the job.

"In my role at ACLU-WV, I work with reporters all across the state, and Kyle's name was the first one that came to mind," he said. "ACLU-WV was tabling at Huntington Pride and Kyle was photographing the event. So, when he came by our booth, I decided I would ask him to consider doing some contract work with us."

The result has been a special partnership between Kyle and ACLU-WV that has allowed for the telling of powerful stories, Wolfe said.

"My goal isn't to get clicks or views, my goal is to change the world," Vass said. "The best way for me to do that in my opinion is to do journalism that holds those with power accountable for their actions."

But what makes Vass's reporting different from other investigative journalism efforts in the state is having the support to pursue the facts of a potential story, and establish an ever-present eye on individuals and organizations that hold power.

"A lot of time, just looking into incidents – even if they never even end up in a story – has an impact of letting people know that they are being seen," he said. "And when people know they are being seen, they are less likely to act so recklessly."

Johnson agreed, citing that most for-profit journalism places a heavy lean on so-called neutrality.

"A lot of times I was pulling him back from my journalism training. I'm hammered into neutrality," she said. "Kyle was clearly like, 'Screw that. This is wrong, I don't want to be neutral.' That's ultimately what made him such a good fit with ACLU. He didn't want to keep his values under wraps. He wanted to be associated with someone that has an agenda."

Wolfe said ACLU-WV is glad to be associated with Kyle's work. After nearly a year of doing contract work with the affiliate, Vass is joining ACLU-WV as a fulltime staff member this summer, and will continue his important work.

— ZAKI MICHAELS

Realizing Our Power

Justice-impacted people step up as a force to be reckoned with at the Capitol.

In its second year, the West Virginia Family of Convicted People, Inc. grew its staff and increased its sphere of influence, bringing justice-impacted people together to rally for change.

Overseen by ACLU-WV Criminal Law Reform Director Greg Whittington, the Family hired two justice-impacted staff members – Crystal Allen as director of community organizing and Deb Ujevich as civic engagement coordinator.

Whittington said Allen and Ujevich hit the ground running in their new positions, undertaking endeavors like registering 1200 voters at area recovery homes, and organizing a large-scale legislative phone banking operation and several successful in-person events.

“Formerly incarcerated people are one of the biggest voting blocks in the state of West Virginia,” Whittington said. “One of our main goals is to help them realize the power they have to change the status quo.”

The Family played a key role in helping defeat several harmful bills, including an attempted re-write of the state’s criminal code that would have made numerous laws more punitive.

One disappointment was the failure of SB 488, a bill that would have restored voting rights to some 10,000 West Virginians who are completing parole and/or probation, Whittington said.

“The bill had strong bipartisan support, but failed because of bickering between lawmakers,” Whittington said. “It’s unfortunate that thousands of West Virginians will continue to be denied the right to vote, but we will come back next year and advocate even stronger.”



“To continue to deny these taxpayers the right to vote is nothing but taxation without representation,” he added.

Highlights of the year for Allen were in-person events like the justice-impacted lobby day that brought formerly incarcerated people and their loved ones to the Capitol, and the legislative breakfast where justice-impacted people could share their concerns with lawmakers.

“We also hosted the Rockin’ Recovery Dance, which was attended by more than 100 people from around the state,” she said. “It was an evening of music, food and dance for people in recovery and reentry.”

The Family also hired four justice-impacted people on a part time basis to make phone calls every day of the leg-



Left: Crystal Allen listens to a speaker during Black Policy Day at the West Virginia Capitol. **Upper right:** Greg Whittington advocates for unhoused people at Charleston City Council. **Lower right:** Overseen by Whittington, the West Virginia Family of Convicted People, Inc. hired Allen as director of community organizing and Deborah Ujevich as civic engagement coordinator. **Photos by Kyle Vass and Billy Wolfe**



islative session regarding bills affecting the criminal code. They also helped to recruit volunteer phone bankers at recovery homes. In the end, the group made over 10,000 calls during the 90-day session.

“Working with the women at Recovery Point in Charleston as they learned about civic engagement, the legislative process, and became more interested in voting rights was also very rewarding for me,” Allen said.

Ujevich agreed, saying: “On more than one occasion, I asked people if they felt like the Legislature cared about what was important to them. That almost overwhelmingly got a ‘no,’ and I let them know the

Legislature reflects who is voting – and that the way to gain appropriate representation is to actually vote for the people that represent you.

“I talked about a few elections where the outcome was decided by just one vote in an effort to highlight how that can actually happen,” Ujevich said.

With help from ACLU-WV, the Family also launched a website at www.wvfam.org, participated in the West Virginia Criminal Legal Reform Coalition and hosted informational tables at 25 community events over the past year. — BILLY WOLFE

ACLU-WV Sues Cabell for Violating State Open Records Laws

In January, ACLU-WV filed a lawsuit in Cabell County Circuit Court against the county's 911 system and county commission for violating state open records laws.

In October 2021, county emergency officials refused a records request made by ACLU-WV investigative reporter Kyle Vass. Vass requested the records as part of his job covering issues surrounding incarceration, including deaths at state correctional facilities. Vass asked for copies of 911 phone calls to Western Regional Jail and was told he would have to get a subpoena to access the records. Similar records requests in four other counties were honored.

"Given the overcrowding and abnormally high rate of preventable death in our state's jails, the public has the right to know what's going on," Vass said. "Public access to public records is vital to democracy. When governments try to take away that access, it makes you wonder what they're hiding."

"West Virginia's Freedom of Information Act is clear that the right of access to public records applies to all West Virginians," ACLU-WV Legal Director Loree Stark said. "The government cannot require a subpoena for records that fall squarely within our state FOIA laws, and when a public body imposes unlawful barriers in violation of the law, it undermines the Act's goal of ensuring that people have a right be informed and to hold their government accountable."

In its lawsuit, ACLU-WV asks the Court to declare the refusal unlawful and order Cabell County Commission and Cabell County 911 to disclose the requested documents, in addition to attorney's fees. Stark and ACLU-WV Staff Attorney Nick Ward brought the suit on behalf of Vass.

The litigation is pending in front of the Hon. Paul T. Farrell. — BILLY WOLFE

Brutal abuse of man in cell leads to filing of federal suit

In September 2020, Benjamin Marcum requested to speak with a supervisor from his cell in Mt. Olive Correctional Complex. He was denied the request and was, instead, met with violence. Instead of getting a supervisor, Cpl. Charles Moles discharged 2,000,000-scoville-unit pepper spray onto Marcum, held in a 6' by 10' cell, leaving him with "chemical burns and blisters on his genitals, legs and feet."

The incident began, according to the complaint, around 11 p.m. on Sept. 15, 2020 when Moles denied Marcum's request to use the "roller phone" — a phone that Moles was taking from cell to cell for phone calls.

According to the complaint, Marcum wanted to contact his elderly grandmother who was ill. Moles denied Marcum's request, offering no explanation.

"Frustrated, Mr. Marcum asked to speak to a 'fucking gold badge,'" which is prison slang for a correctional officer with supervisor status. Moles responded to Marcum saying, "Here is your gold badge," and "began spraying under the door into Mr. Marcum's tiny cell" for 25 to 30 seconds. According to an affidavit Marcum submitted to the courts, "[he] was telling him to stop and [Moles] kept spraying me over and over."

The incident as described by Marcum was corroborated in two other witness affidavits submitted to the Court.

Following the incident, Marcum, in his affidavit, said the officer responded by first allowing two other inmates nearby to go out to the recreational yard and "left [him] covered in spray." Marcum was then stripped and handcuffed before being taken to a medical unit where he was allowed to shower where



Huttonsville Correctional Center was the scene of a brutal pepper-spraying incident of an incarcerated man that has led to a federal ACLU-WV lawsuit.

Courtesy Photo



“[he] was given no soap or washcloth to help remove the chemical off [his] body” and was “told to rinse it off the best [he] could.”

According to his affidavit, Marcum didn’t receive ointment for his burns for two days.

Court documents show that Marcum filed a complaint with staff at Mt. Olive, detailing the injuries he sustained from the use of pepper spray and asking for pepper spray to be removed from the facility. Staff denied his request stating, “[Pepper spray] is approved by the Food and Drug Administration and necessary to stop negative behavior within this environment.”

Marcum then filed an additional complaint asking that staff “please quit spraying inmates in retaliation due to lack of staff and overexertion of employees.” Supervisors at the prison responded on his com-

plaint form, “No one is retaliating. [Pepper spray] was used to stop you from your negative behavior,” and “Your actions require the use of [pepper spray].”

Marcum’s grievances were denied by supervisors at Mt. Olive. But four months after the incident, he filed suit in the WV Southern District Court. Initially, Marcum was representing himself. But ACLU-WV, alongside Mountain State Justice, offered to represent him.

“Administrators and officers are responsible for the basic safety and wellbeing of the people in state custody,” said Loree Stark, ACLU-WV legal director. “People who are incarcerated do not leave their constitutional right to be free from excessive force at the door when they are put in jail. Likewise, officials and officers don’t get a pass to violate that right.”

— KYLE VASS

Wonder Woman and the God Squad

ACLU-WV Bill of Rights Dinner returns to honor three West Virginia social justice superheroes

After a two-and-a-half-year hiatus, the ACLU-WV Bill of Rights Dinner returned in March 2022, bringing some of the organization's strongest supporters together from across the state to celebrate victories and face the challenges ahead.

"It was incredible after all we have been through with the

COVID-19 pandemic to see so many of our allies all gathered under one roof," Executive Director Joseph Cohen said.

The dinner's main attraction were ACLU-WV's honorees, Cohen said.

Receiving the Sid Bell Memorial Award were Rabbi Victor Urecki and Ibtesam "Sue" Barazi, known to ACLU-WV as "The God Squad."



Cohen said likening the duo to a super hero team couldn't be more appropriate.

"I can't count the times we have called on the Rabbi and Sue when harmful legislation has been proposed and by the next morning they have already hand-delivered a strongly worded letter to legislators," he said. "Their differences – the rabbi in his yarmulke and Sue in her hijab – is where they derive their strength. It shows that two people who come from wildly different perspectives are united against this anti-civil liberties agenda."

Urecki said he was honored to receive the award with his friend and partner in advocacy. He said the work of ACLU-WV gives him hope during these challenging times where a hostile Legislature continues to attack marginalized people.

"I talk to people who are already at the point where they just want to give up," he said. "The fight to create a better West Virginia is so daunting, and I will be honest, there were a few times this year when I said, 'What's the point?'"

"But then we see the ACLU," he continued. "The people of this incredible organization, there at the Capitol every day tirelessly monitoring, constantly strategizing, always advocating, never giving up but standing up for the vulnerable and those without a voice, and let me tell you, you inspire people like me and so many around this state to get up want to fight again."

Barazi called the award "a great honor."

"The work I do is a labor of love and means so much to me," she said. "I never dreamed of being honored for it. The honor is

doubled by getting to share it with an amazing faith leader and humanitarian like Rabbi Urecki."

Sticking with the superhero theme, Cohen said the only title for the night's other honoree would have to be Wonder Woman.

Receiving the Roger Baldwin Award for service to the state of West Virginia was Delegate Danielle Walker. Cohen called Walker "an absolute champion for human rights, a force of nature, smart, compassionate, hardworking and loving."

"She walks into a room, and fills it with energy," he said. "She speaks, and inspires you to be better."

"As the only Black woman in the Legislature, Delegate Walker has repeatedly been the target of racist, misogynistic violence and vitriol. In the face of that violence, she never backs down, never falters, never hesitates in her full throated, outspoken, and unapologetic support for our state's most marginalized communities."

Walker used her award as an opportunity praise others in the movement for social justice.

"This award represents every call, protestor, resistor, advocate, activist, dreamer, ally, and accomplice who engages in being uncomfortable for a moment," she said. "I will continue to share any platform and space because presentation without presence is powerless. We the People are Power."

Sponsors included: ACLU-WV Board of Directors, Naomi and Harvey Cohen, Women's Health Center of WV, the law firm DiPiero Simmons McGinley and Bastress, Harmony Mental Health, the law firm Hissam Forman Donovan and

Ritchie, the National Association of Social Workers WV Chapter, WV Center on Budget and Policy, WV FREE, Fairness WV, Rainbow Pride of WV, the Skinner Law Firm, Women's March of WV, WV Citizen Action Group, Auge Gray Drake Collective Works, the Islamic Association of WV, Planned Parenthood Votes South Atlantic, The Muslim Association of Huntington, Rachel Dash, Judy Azulay and Frank Crabtree, Delegate Barbara Evans Fleischauer and Bob Bastress, Ruth and Robert Baker, Millie and Allan Karlin, Sallie and Dave Milam, Rita Ray and Paul Epstein, and Dawn Warfield and Thomas Knight.

— BILLY WOLFE



Left: Ibtesam "Sue" Barazi, Rabbi Victor Urecki, and Delegate Danielle Walker (D-Monongalia) were the honorees at ACLU-WV's 2022 Bill of Rights Dinner, held in Charleston on March 22.

Above: The crowd listens as Walker gives a powerful speech.

Photos by Kyle Vass

In your community



LGBTQ+ Students' Rights

Community Outreach Director Mollie Kennedy gave a Know Your Rights presentation for students at the United for Love LGBTQ+ youth resource fair in Huntington.

ACLU-WV is regularly bombarded by complaints from parents and students about mistreatment in schools. LGBTQ+ students have the right to learn in a safe environment free from discrimination, and educators play an important role in protecting their rights.

The event was organized by Huntington Pride and the Branches Domestic Violence Shelter.

Photo by Kyle Vass

We Won't Go Back to the Fifties

In May 2021, Poca High School in Putnam County told graduating seniors they would have to abide by a hyper-gendered dress code straight out of the 1950s for the school's commencement ceremony. Legal Director Loree Stark sent a letter explaining that the dress code was unlawful and demanding it be rescinded immediately. Administrators backed down and students were not forced to adhere to this outdated policy.

Harm Reduction Fair

Members of the ACLU-WV staff participated in a harm reduction resource fair aimed at raising awareness about the HIV outbreak in the Kanawha Valley. Attendees used their bodies to spell out "HIV SOS" and an aerial drone photo was taken and distributed to national media.

Pride Statewide

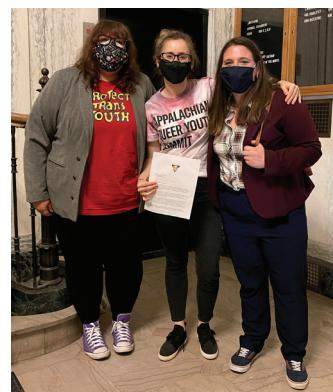
The affiliate maintained a presence at 10 different Pride events (Charleston, Beckley, Huntington, Fairmont, Parkersburg, Lewisburg, Elkins, Berkeley Springs, Morgantown, Parkersburg). Staffers distributed information, marched, and promoted the Appalachian Queer Youth Summit.

July 4 Open House

The new ACLU-WV headquarters on Kanawha Boulevard in Charleston hosted a July 4 community cookout, where attendees learned more about the affiliate's work. The event is scheduled for 2022 as well. All supporters are welcome to attend.

Banning Conversion Therapy

There are currently no protections in West Virginia state code for LGBTQ+ young people who are exposed to the harmful practice of so-called conversion therapy. ACLU-WV advocated successfully in three cities – Morgantown, Charleston and Wheeling – to help pass ordinances.



Helping Teachers and Students

Following numerous complaints from LGBTQ+ students in Randolph County, staff members joined the new Pride organization in the county to march in the community's Christmas Parade. Staff members also attended school board meetings and organized a Know Your Rights event in the county to help students and educators better understand how to advocate for themselves.

Fighting for Fair Maps

As the Legislature prepared to redraw political maps following the 2020 Census, ACLU-WV actively promoted a series of public hearings on the new maps and attended several meetings to voice concerns about preserving Black and brown representation and ensuring transparency in the process. Unfortunately, proposed maps weren't ready until after the meetings took place, falling short of full transparency.

'Considering Matthew Shepard'

In May, staff members hosted a table at the performance 'Considering Matthew Shepard' at the West Virginia University Canady Creative Arts Center to show support for the Morgantown LGBTQ+ community and help spread awareness about the Appalachian Queer Youth Summit.

Lobby Days at the Capitol

ACLU-WV will host a Civil Liberties Lobby Day at the state Capitol on Jan. 17, 2023. West Virginians who care about our issues are invited to attend, participate in citizen lobbyist trainings and speak with their legislators one-on-one. For more information, email mkennedy@acluwv.org.



Black Policy Day

Advocacy Specialist Dijon Stokes (second from left) participated in Black Policy Day at the Legislature, serving on a panel at the event's opening breakfast. Staff members also hosted a table at the event and conducted a tee shirt giveaway around the Let Justice-Impacted People vote campaign, which sought to restore voting rights to the more than 10,000 West Virginians who cannot register to vote because they are on parole and/or probation. Also pictured from left are U.S. Rep. Adeoye Owolewa, writer and activist Crystal Good, and communications professional Jaqueline Proctor. The next Black Policy Day is set for Feb. 9, 2023.



ACLU-WV staff and volunteers acted as legal observers during a June Black Voters Matter rally at the state Capitol.

Photo by Kyle Vass



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Contact Rose Winland rwinland@acluww.org to give a gift in support of the Fellowship.

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