



American Civil Liberties Union of South Carolina Foundation

Because Freedom Can't Protect Itself

NEWSLETTER

May 2012

From the Executive Director

You are making a difference in South Carolina

You make possible our defense of civil liberties in the courts, our "Know Your Rights" public education campaigns, and our advocacy against government intrusion on our constitutional rights.

Is there a "1%" when it comes to the distribution of rights in South Carolina? If the Bill of Rights can be more than just a theoretical document about equality and individual rights, we need to fight to ensure that it applies to all Americans—including those of color, those who are not rich, those who are not in the majority group.

People who receive government benefits have no less right to privacy than the politicians who want them to pass drug tests before receiving aid for their families. People who lack a photo ID have no less right to vote than affluent frequent flyers.

People who belong to racial and ethnic minorities have an equal right to walk and drive freely without being accosted by law enforcement simply because of how they look or sound.

People should not be discriminated against because of whom they love. Women should not be denied medical care and insurance coverage for contraception or pregnancy because of the extreme agenda of some politicians.



Executive Director Victoria Middleton: Justice for Trayvon Rally, April 3rd in Marion Square in Charleston.

All of these abuses of government power have surfaced in our state during the past year. Some of our latest civil liberties battles have ended with victories; not all do.

At a time when civil liberties are under attack, your membership in the ACLU means more than ever.

We are never discouraged, because we are "traveling hopefully," as Roger Baldwin said, strengthened by your support.

Keep Kids in School

Nicole Kief

Advocacy and Policy Strategist for the National ACLU



A good education is fundamental to a young person's development and success in life. Increased educational attainment is linked to better jobs, higher incomes, improved health and life expectancy, greater voter participation and lower incarceration rates.

Sadly, according to the Alliance for Excellent Education, only 59% of South Carolina students graduate high school, and the rates for black and Hispanic students are even worse (50% and 36% respectively).

A South Carolinian without a high school diploma can expect to earn approximately \$7,867 less each year than a high school graduate. Two in five prison and jail inmates lack a high school diploma or equivalent.

What can we do to keep kids in the classroom?

We can re-think what it means to create safe schools, and that means re-thinking the zero tolerance approach to misbehavior. Schools have cracked down on student misbehavior, ostensibly to root out dangerous crime. The result has been millions of students suspended, expelled and arrested—often for minor misbehaviors that do not truly threaten school safety. We call this the "school-to-prison pipeline."

Take 12-year-old Alexa Gonzalez for example who was arrested at her school in New York. Her offense? She wrote "I love my friends Abby and Faith" on her desk in green marker.

Or take Elizabeth Diaz who spent 18 days in a Texas jail because she owed approximately \$1600 in fines related to tickets she received for truancy dating back to 2006—fines she and her mother could not afford to pay.

This excessively punitive approach to misbehavior does nothing to create safer schools. Instead, it harms the futures of countless young people. A recent study in Texas found that 31% of disciplined students were held back, and 10% of students suspended or expelled between seventh and twelfth grade dropped out.

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ACLU of SC Board Change of Leadership

The Executive Committee of the ACLU of SC Board met on Friday March 16 and took the following actions:

- 1. The Executive Committee approved Ron Romine's stepping down as President but remaining on the Board.*
- 2. The Executive Committee elected Joseph Darby as acting interim President to fill the vacancy until the next election of officers in January 2013.*

Thanks to Ron Romine for his past leadership, and congratulations to Joseph Darby on his election.

Annual General Membership Meeting Notes

The ACLU of South Carolina held its 2012 general membership meeting at the USC School of Law in Columbia on Saturday January 28.

Affiliate President Ron Romine introduced the Board of Directors, whose members embody ACLU's commitment to civil liberties for all South Carolinians and represent the diversity of our state.

Executive Director Victoria Middleton reviewed the affiliate's work in 2011. Highlights of the past year included halting implementation of the state Voter ID law, to which the U.S. Department of Justice denied "pre-clearance" in December.

The ACLU and its partners also won an injunction in U.S. District Court in Charleston against the anti-immigrant law passed last year. Both measures are in the higher courts as of this writing, and decisions are expected by summer 2012.

Legislative priorities for the 2012 session include fighting bills that suppress voting rights, allow politicians' intervention in women's reproductive health decisions, and require drug testing for benefits like unemployment and Temporary Assistance to Needy Families. Public education is under assault by legislation that would expand voucher programs.

Legal Director Susan Dunn briefed members on cases that illustrate the affiliate's work to protect the vulnerable and defend the rights of minorities. She also described the affiliate's handling of intake requests and outreach to attorneys in each part of the state to assist in making appropriate referrals.

The meeting closed with a question and answer period and reception.

2012 ACLU of South Carolina Board of Directors

Tammy Besherse	Marta Borinsky	Millicent Brown
Rev. Joseph Darby	Robin Garrell	Glen Halva-Neubauer
Heath Hoffman	John Leiter	Joy Mandanas
Romina McCandless	Ron Romine	Ivan Segura
Sam Shoemaker	Anne Tromsness	Harry Wilkinson

Keep Kids in School

Students of color bear the brunt of this phenomenon—despite a lack of evidence that they misbehave to a greater degree than white students. Indeed, they are more likely to be disciplined or arrested than their white peers, even for the same kinds of misbehavior.

The data from South Carolina bears out this disturbing trend of racially disproportionate treatment. In Greenville, for instance, black students accounted for the majority of students given more than one out-of-school suspension, expelled under zero tolerance policies and arrested at school, even though they make up only a quarter of the student body.

As civil rights advocates, we must act to end this unfair treatment and stop the school-to-prison pipeline from foreclosing opportunities for so many young people. It's time to leave the zero tolerance approach behind and keep kids in school.



Joseph Azar & Rev. Joseph Darby, Acting President of the ACLU of SC Board of Directors at the Annual General Membership Meeting.



Members Mark Tannenbaum and Rabbi A. D. Holz of Charleston

Highlights From the Legal Docket

Susan Dunn, Legal Director

Protecting Personal Information:

Our office sent a Freedom of Information Act request (FOIA) to the Department of Police for the City of Charleston after discovering that officers were recording Social Security numbers and telephone numbers on uniform traffic tickets. Our request alerted the attorney for the police to this misuse of private information. After we provided legal authority, the Department rescinded its guidelines and instructed its officers to cease asking for and recording Social Security numbers on uniform citations.

Constitutionality of Resisting

Police Statute: After a request by the Rock Hill Chapter of the NAACP and a review of the arrest statistics, we contacted the Rock Hill City Council demanding the repeal of the statute that gave the police unconstitutionally broad authority to arrest. We included statistics indicating that a disproportionate number of minority citizens were arrested for violating this statute. The Council responded to our demand by revising the statute to require a physical act impeding the police.

Restrictive Mail Policy, Berkeley County Detention Center:

In January, we settled the federal lawsuit challenging the restriction of inmate access to all publications by mail with the issuance of a permanent injunction which establishes constitutionally valid jail policies. We worked with the ACLU National Prison Project in this litigation. The Department of Justice also intervened in the case. Currently we are monitoring compliance with the consent order.

Voter ID Legislation: Despite our lobbying efforts, the SC legislature passed restrictive Voter ID legislation. The Voting Rights Act required that SC seek preclearance by the Department of Justice before the legislation could go into effect. With the National Voting Rights Project, we submitted comments to the DOJ documenting the effect of the legislation on minority voters.

DOJ denied preclearance, referencing our comment letters in its decision. SC has petitioned the US District

Court of DC requesting its independent determination that the SC Voter ID legislation complies with the requirements of the Voting Rights Act.

On behalf of several voters and organizations that advocate for voters, we filed a motion to intervene, which was granted. South Carolina argued that the Court must make a decision by August 1, 2012 if the state is to have time to implement Voter ID by the November elections.

The Department of Justice, the ACLU and other intervenors argued that such a truncated schedule would jeopardize the fairness of the litigation.

Voting Rights Forums were held in Georgetown



on April 26th and Charleston on May 1st.

Stopping the implementation of Anti-Immigrant Legislation: The legislation enacted by SC which mirrored the Arizona anti-immigration statutes was to go into effect on January 1, 2012.

In October, we joined with other civil rights organizations to file a federal lawsuit asking the Court to block the law. On Dec. 22, 2011, Judge Richard Gergel issued a preliminary injunction stopping critical portions of the bill from going into effect.

Andre Segura, Immigrants' Rights Project Staff Attorney for the National ACLU of the ACLU Immigrant Rights Project served as lead counsel, and Susan Dunn, our legal director, served as local counsel.

While the injunction remains, the case is now stayed pending the US Supreme Court review of the Arizona legislation. The Supreme Court heard

oral arguments in that case on April 25th.

Susan Dunn, Legal Director of the ACLU of



South Carolina, and Pedro Diaz, ACLU plaintiff.

Ending Proselytizing in Public

Schools, Chesterfield County: After viewing a YouTube video chronicling a middle school assembly which featured a Christian rock band, an evangelical preacher, and a call for the students to sign "commitment cards" dedicating their lives to Jesus, we submitted a FOIA to the school district which exposed a culture of religiosity in the public schools.

When our request for remedial action fell on deaf ears, we filed suit in the Florence Federal District Court. After intense negotiations, the School Board agreed to a consent decree and order that will put in place a mechanism assuring separation of church and state in its schools. We are now monitoring that consent order.

Sting Operation Targeting Gay

Men, Greenville: After receiving a complaint from a man who was forced to reveal his sexual orientation as a result of a possible sting operation, we sent a FOIA request to the Sheriff's Department of Greenville County to determine the policy behind this sort of arrest and its frequency.

The Department has provided some information, and we will request additional information as we continue to explore legal options.

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Highlights From the Legal Docket

(Continued from page 3)

Public Forum Protection: The City of Charleston passed a charitable solicitation statute that is being used to arrest individuals who peacefully panhandle on public sidewalks and in public parks. We have filed and briefed a motion to dismiss asking that citations be dropped against an elderly gentleman who was cited for charitable solicitation without a permit. The City's permit process is cumbersome, expensive and subjective. There are less extreme ways to deal with some of the problems often associated with panhandling without trampling on First Amendment rights and criminalizing poverty. A hearing will take place in early May.

Ending Teacher-led Prayer: An elementary school teacher in Lexington County led her students in prayer every day before lunch. When a parent complained to school officials, the teacher set up a procedure designating a student to lead the prayer. After we sent a demand letter to the school district, the teacher was finally instructed not to subject the children to forced prayer.

A Bad Bill is a Future Bad Law 2012 Legislative Update

You can make a difference in our work to fight bad bills. During this legislative session, your actions have helped to slow or halt bills that were serious threats to civil liberties in South Carolina. More and more of you are writing letters, making phone calls or attending our grassroots advocacy workshops.

For example, an anti-voter registration bill (H 4358) would have shut down community voter registration drives in our state. After appeals from the ACLU of SC and our voting rights partners, the press reported:

"Legislators were deluged with letters, phone calls, emails and petitions expressing concerns that the bill would hinder the voting rights of elderly, minority, low-income and disabled voters, who are most likely to register through community voter registration drives rather than go to a county voter registration office. We've been told that the bill is likely dead for this year." (*Cheraw Chronicle*)



Women's health is still under critical assault in South Carolina.

Jan Landry, Office & Program Manager at the ACLU of South Carolina (right) and event speaker Ashley Miller at the UniteWomen Rally in Columbia on April 28th.

We testified against the insurance ban/refusal of care bill (H 3408) that would limit a woman's ability to terminate a pregnancy even in cases of rape or incest.

With a Single Sentence, You Can Defend Freedom Now and Forever.

Right now, by adding the ACLU to your will, you can leave a legacy of liberty for generations to come and defend our freedom today.

Every significant ACLU victory has its roots in the achievements of generations past. And every generation of ACLU supporters has the dual responsibility of acting in the moment and looking to the future. That's why it's so crucial for you to take full advantage of this rare opportunity to do both at once.

Name the ACLU in your estate plans and the LuEsther T. Mertz Charitable Trust will make a cash matching contribution of up to \$10,000 to the ACLU today, while matching funds are available.

For simple bequest language to include in your will and for information on other gifts that qualify for the Legacy Challenge, please call our office at 843-720-1423 OR contact aclu_sc@aclusouthcarolina.org.

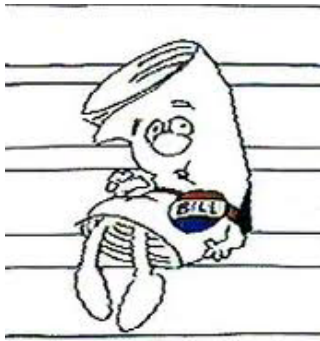
Allowing health professionals to deny care based on personal religious beliefs would hurt women in rural and low-income communities whose health care options may be limited. This legislation and other measures represent politicians' attempts to control women's health.

We testified against a drug testing bill (H 4358) that would require applicants for Temporary Assistance to Needy Families (TANF) to pay for their tests. Other bills would deny unemployment and other benefits to those who refuse drug tests. These measures stigmatize the needy and waste tax dollars. The South Carolina Department of Social Services estimated the cost of drug tests for TANF applicants at \$2.5 million per year, plus significant administrative expenses.

Studies by the federal government and independent experts have shown that people on welfare consistently test positive far less often for drugs than the general population. Suspicionless drug tests (which can reveal existing medical conditions and genetic factors) are invasive of people's privacy and a violation of the Fourth Amendment.

We weighed in on the private school tax credit bill (H 4894), which amounts to vouchers in disguise for private schooling. Supporters claim that tax credits do not involve public money, but there is no real difference between tax credits and direct taxpayer payments to private and religious schools.

Calling or writing your South Carolina elected officials can make an impact. If you support public education, please pick up the phone or send an e-mail via your own representative's site. You can locate your House and Senate members via www.scstatehouse.gov.



He's just a bill, and together we can defeat him!

Don't let a "Bad Bill" become a law.

Join our grassroots advocacy network.

E-mail aclu_sc@aclusouthcarolina.org to sign up.

Stay tuned in for calls to action to protect and preserve civil liberties in our state. The vulnerable people in South Carolina whose rights are threatened need your help.

Coming in June: our newly designed web site at www.aclusouthcarolina.org

2012 Education and Advocacy

We have been in the South Carolina legislature lobbying against "bad" bills. We have been in the courts defending the rights of South Carolinians. And we have been in the community educating and advocating for change. More on our outreach.

January 21. Antonio Garcia and Susan Dunn of the ACLU of SC led a Train the Trainer workshop in North Charleston with Amanda Newell of the U.S. Immigration and Naturalization Service and Marco Torres of Torres Law Firm in Charleston. The training educated community leaders and activists about the issues and questions surrounding SB20 (the SC anti-immigrant bill) and related immigration legislation.

February 23. We partnered with the League of Women Voters, Planned Parenthood and S.C. Equality to offer a Citizens' Advocacy Training Workshop in Charleston. Over 40 attendees learned how to effectively communicate with elected officials.

March 27. Victoria Middleton, ACLU of SC Executive Director, spoke at a forum held by "Openings," a faith-based LGBT group in Columbia, sharing best practices for engaging legislators and educating the public about equality.

April 17 & 18. Victoria Middleton spoke at the Winthrop University Voting Rights Forum on the 17th, and we partnered with the NAACP to offer a public voting rights forum on the 18th in Rock Hill.

April 27. We joined the community at the YWCA of Charleston's annual Stand Against Racism. George Hopkins, Anna Shockley, Trey Faile, Ingrid Lesemann and Susan Dunn, Legal Director of the ACLU of SC hold up the banner of freedom on the Ravenel Bridge (*pictured at right*).

May 1. "Estamos Unidos"/"We are United" is a nationwide ACLU campaign to promote immigrant rights education and support lobbying and litigation to block discriminatory anti-immigrant laws. The campaign included a two-week coast to coast tour to reach out to those who have been disenfranchised by these laws. The ACLU of South Carolina held Estamos Unidos/We Are United town hall meetings in Columbia and Charleston.



Pictured are the Estamos Unidos team in red shirts and, from left to right, Victoria Middleton; Tammy Beshers, ACLU of SC Board of Directors; Pastor Sandy Jones of Manantial de Vida Lutheran Church in Columbia and Andre Segura, Immigrants' Rights Project Staff Attorney for the National ACLU.

For more information on the Estamos Unidos campaign and immigrants' rights, visit www.miacclu.org.

Why I am a Member of the ACLU – Lucille Whipper



Through the years of my membership with ACLU, I have experienced the frustration of having history repeat itself. As an African American female, I am very sensitive to the various practices of government and society that hinder our achievement of the ideals stated in the Declaration of Independence and our Constitution. As a citizen of South Carolina, I am often amazed at what happens here and ask, "how can this be?" Is there anyone on the side of justice, equality, diversity, individual freedom, and other issues of civil liberties? For me, the comforting reality is that the ACLU has been the voice to be heard and has taken action to correct backward steps into history.

The ACLU remains relevant in challenging cases of injustice that are blatant or insidious no matter they occur. I am pleased to be among the supporters of ACLU as this organization forges ahead in making the sacred documents of our country a reality for all.

In 1985 Lucille Whipper became the first African American female elected to a state office from the Tri-County area. She served in the SC House of Representatives for 10 years.

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