



ACLU

AMERICAN CIVIL LIBERTIES UNION
of SOUTH CAROLINA

Because Freedom Can't Protect Itself

NEWSLETTER

FALL 2015

Who's Policing the Police?

This year, we saw a Columbia man shot by a police officer after reaching for the very ID the officer was asking for. We watched a bystander video of Walter Scott's shooting in North Charleston. We read of a Seneca teenager's death in a drug sting. These and a number of other South Carolina victims of police shootings were unarmed. Protests in our state have been peaceful, but community trust in local police departments has been shaken.

How did we get here, and what needs to change?

The "war on drugs," launched in the 1970s, measured the success of drug enforcement efforts based on arrest figures and metrics that didn't focus on true public safety.

In fact, aggressive policing of low level offenses erodes community safety by increasing adversarial relationships and distrust. "Broken windows" policing, pretextual stops, unregulated surveillance and "militarization" of police units supplied with surplus Pentagon equipment - all these policies contribute to over-policing. And they are being increasingly discredited.

We should promote a culture of greater transparency. Law enforcement and civilian authorities need to ensure that police do a better job of collecting, examining and publishing data on stops and arrests to investigate possible bias. The body cameras being mandated for law enforcement by our state officials could help de-escalate encounters between the police and citizens, but it remains to be seen whether this measure will increase public confidence.

One way to build greater trust is to engage all community residents. Civilian review boards could be created that are endowed with substantial authority, which could include subpoena power and independent disciplinary authority. These boards could be charged with regularly analyzing

data on a range of police department practices to determine if there are any unjustified racial disparities or other system-wide problems in enforcement practices.

Training in identifying implicit bias, de-escalating conflicts, and alternatives to use of force should be increased.

If we're serious about eliminating racial bias and creating a fairer and more equitable climate in our communities, we need system-wide change in our institutions. Real community safety depends on it.

What are we asking for?

- **A zero-tolerance policy toward racial profiling, and an increase in training, including implicit bias training, to end discriminatory practices;**
- **A review of use of force and training in de-escalating situations;**
- **Greater transparency and better data collection so everyone knows what the police are doing and how they are doing it;**
- **Greater accountability, with the police being held responsible by the community; and**
- **Police departments made up of more people from the communities they serve.**



MESSAGE FROM THE BOARD PRESIDENT

ROBIN GARRELL, M.D.



The end of the year is a time of transitions, and as we prepare to say farewell to our Executive Director after seven years' tenure, we also welcome new staff and new Board members. It's a time to reflect on the progress that the affiliate has made since the founding of the ACLU in South

Carolina in 1968. This organization has been the state's premier guardian of civil liberties and is as vital and dynamic today as at its founding. We look forward to our 50th anniversary in 2018 with pride, yet we know there remains much to do.

We have a growing agenda in our state, with the big goal of changing the landscape for civil liberties in South Carolina. The organization needs both your financial contributions and your personal activism.

Please watch for your ballots for electing new Board members in December, and please join us in Columbia at the annual general meeting on January 23, 2016.

**Thank you for all you have done,
and for all you can do,
to preserve civil liberties in our state.**

MESSAGE FROM THE EXECUTIVE DIRECTOR

VICTORIA MIDDLETON

The past summer was a time of upheaval in South Carolina, from the April 4 shooting death of Walter Scott in North Charleston, to the racially motivated killings at Emanuel AME Church in Charleston on June 17, to the removal of the Confederate flag from the Statehouse grounds on July 10.

The tragic and momentous events put South Carolina in a national spotlight and exposed persistent, chronic shortcomings in South Carolina's justice system. We are advocating for system-wide reforms, from the local level to the Statehouse.

We co-signed a letter with the NAACP's Legal Defense Fund that was sent to the Department of Justice in mid-July, requesting an investigation into police practices in North Charleston after the shooting of Walter Scott in April 2015.

In the legislature, we supported amending the code related to juvenile record expungement applications. This limits the right of the court to consider offenses that an individual could have been charged with when determining whether or not that juvenile is eligible for expungement of his/her record. We also advocated for the extension of the "Study Committee on Expungement of Criminal Offenses" (H 3247).

A new bill, H 4261/S 764, filed late in May, would eliminate the exception for children to be tried as adults, reduce detention for violation of status offenses, and establish a process for automatic expungement of status offenses. We will lobby for its passage when the session resumes in January 2016, as part of our campaign to reform juvenile justice.

The body camera bill signed by the Governor in June is unsatisfactory in its final form. Sections providing for specific public/press access to video in controversial or problematic incidents were stripped out of the House version of the bill. We will monitor its implementation and push for administrative improvements.

We also testified on S 647, which confirms the citizen's right to film police in public places. Work to pass this bill is expected to continue when the session resumes.

In addition to reforms of South Carolina's justice system, we'll be lobbying for equal treatment for LGBTQ people and against discrimination. We oppose H 3150, which prevents the sanctioning or punishment of those individuals who refuse to perform services for a same-sex marriage.

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ACLU IN THE COMMUNITY

EDUCATION & OUTREACH

LOVE WINS!

The U.S. Supreme Court ruled on June 26 that all remaining state marriage bans were unconstitutional in the case of *Obergefell v. Hodges*. The ACLU successfully represented Jim Obergefell and his husband, the late John Arthur, among other plaintiffs.



ACLU at Charleston Pride



Board members march at Upstate Pride



Jim Obergefell at Charleston Pride

ADVOCACY ON RACIAL JUSTICE

The ACLU of South Carolina has proactively advanced a reform agenda in town hall meetings and community forums focused on policing and social justice. We are working with communities to develop strategies to improve public safety and relations between communities and law enforcement. We rallied and ran workshops at “Charleston’s Days of Grace,” a social justice conference. We took part in a teach-in on police brutality at the College of Charleston, and a People’s Town Hall in North Charleston to document stories of police profiling. We spoke in Greenville and in Spartanburg on “policing the police” and reducing over-incarceration in South Carolina. We welcome opportunities to increase our involvement with other communities around the state. Contact us at (843) 720-1423 to invite an ACLU of SC speaker to your event.



Constitution Day, Riley Institute at Furman U.

SNAPSHOTS FROM THE LEGAL DOCKET

SUSAN DUNN, LEGAL DIRECTOR



Forum on Jasper County School Board Elections

JASPER COUNTY, SC: On September 22, 2015, the citizens of Jasper County were finally able to elect representatives to the school board from districts that met constitutional standards. The distribution of population, as documented by the 2010 census, had changed, and the existing single member districts for the Jasper county school board were no longer equivalent in population. The legislature failed to pass appropriate re-districting legislation. It took a law suit filed by the ACLU and a decision by U.S. District Judge Richard Gergel to draw new district lines and to schedule a special election to fill the seats on the school board. A full slate of nine members was elected, and the new board can now focus on providing for the education of the children of Jasper County.

INDIGENT DEFENSE: In June of 2015, more than 80 people were in the Sumter-Lee Detention Center for failing to pay child support. Signed affidavits confirm that none had the money to pay. We are working with allies from across the state to demand that procedures be put in place to protect against the jailing of parents who do not have the ability to pay child support.

Indigent defendants exist outside of the realm of Family Court and child support issues. Many poor people facing criminal charges in magistrate or municipal courts have little or no access to defense lawyers, and most people arrested in South Carolina have no access to legal advice at the time a bond is set.

On July 13, 2015, 48 people were in the Charleston County jail after being arrested by City of Charleston police for minor offenses. Eight were being held on single, non-violent charges with bonds set at less than \$700, and at least one person had been in jail for 44 days on a trespassing charge with a bond of \$420. It is fiscally and morally irresponsible to keep people sitting in jail for minor offenses simply because they can't afford the cash bond - which is not required and is often administered arbitrarily. Through education, we are encouraging the use of personal recognizance bonds to lessen the burden on our prison systems and indigent services, and to minimize the negative impact on lives and communities.

The National ACLU and the National Association of Criminal Defense Attorneys are working together on a project to increase access to defense attorneys. That project has chosen South Carolina as a focus state because the lack of counsel has been documented here. We are developing a state-wide strategy of advocacy and litigation in conjunction with these partners.



JUVENILE JUSTICE: The annual figures reported by the Department of Juvenile Justice indicate that 16,429 youth (not including the number of young people detained before they go to court) were referred to Family Court on juvenile charges: 1,282 were referred for serious or violent crimes; 1,364 were committed to DJJ for long term sentences; and 1,243 juveniles were sent to residential evaluation centers, which are secure facilities (a kind of jail), for up to 45 days. Our Youth Justice Advocate, Tracey Tucker, is working to limit the number of residential evaluations and to reduce detention of any youth who are status offenders.

SAME-SEX MARRIAGE FOLLOW-UP: The South Carolina Task Force organized after the SCOTUS *Windsor* decision to monitor issues relating to the recognition of same-sex marriage and other relationship issues continues to meet. It will monitor religious refusal, employment discrimination and potential family court recognition issues.

We support H 3126 because it amends a section of the code regarding state filing status to include legal same-sex marriages in order to ensure that the terms are not exclusionary or gender specific. We favor H 3950, which amends the “Uniform Antidiscrimination Act” in order to expand the definition of discrimination to include discrimination based on sexual orientation. Additionally, H 3950 ensures that it is illegal for an employer to discriminate against an employee because of sexual orientation, as well as stating that the religious freedom protections in this state do not justify discrimination against someone based on sexual orientation. H 3404, which would create penalties for hate crimes, is legislation that currently does not contain protection for LGBTQ South Carolinians. We will work to ensure inclusion of these protections.

Attacks on women’s reproductive health and voting rights will certainly recur in the second half of the legislative session, starting in January 2016. We are against bills that would ban abortions at 20 weeks, and we testified and lobbied extensively on the House version, H 3114. This bill, which has no exceptions in the ban for rape, incest, the health of the mother, or severe fetal anomalies, passed the House and was Senate, and is now in conference committee. The bill is expected to be a priority when the legislature resumes in January 2016.

S 129 would establish the definition of personhood as beginning at fertilization, which we oppose because of the limits it places on a woman’s right to choose, as well as its far-ranging legal implications (e.g. for IVF fertility treatments, inheritance rights, etc.). To date, personhood bills have not moved forward, but we remain vigilant.

Going into local election season, our outreach on voting rights will ramp up to prevent voter suppression. We will make available “know your rights” materials, monitor election commission websites and mailings for accuracy, and ensure that eligible voters who have a reasonable impediment to obtaining a photo ID are not denied access to the polls.



Hail and Farewell

After seven years leading the ACLU affiliate in our state, **Executive Director Victoria Middleton** is stepping down in winter 2016. Retirement will include continuing advocacy for civil liberties, but more time for travel and family and friends.



Jessica McFadden joined the ACLU of South Carolina as office manager in May. She holds a BS in Criminal Justice from Georgia State University and previously worked as an administrative office and legal assistant for the

Southern Environmental Law Center offices in Atlanta and in Charleston. Jessica brings paralegal expertise as well as communications and financial management experience to the affiliate.

INVEST IN LIBERTY

Your tax-deductible gift to the ACLU of South Carolina Foundation ensures our ability to fight for individual freedoms and rights. We will continue to be good stewards as we do all that is possible to defend the Constitution and Bill of Rights.

If you are interested in helping us make an impact, please make a donation using the envelope provided or online at:

www.aclusouthcarolina.org

LEAVE A LEGACY FOR THE FUTURE

The civil liberties landscape can change in unexpected ways, and the ACLU will be there to protect our freedoms. Your bequest or other gift through your estate plans will allow us to continue to secure civil liberties for generations to come.

If you are interested in leaving a legacy, please call toll-free: 877-867-1025 or visit online at:

www.aclu.org/legacy



AMERICAN CIVIL LIBERTIES UNION
of SOUTH CAROLINA

American Civil Liberties Union
of South Carolina Foundation
P.O. Box 20998
Charleston, SC 29413



We welcome volunteers!

MARK YOUR CALENDARS

2016 ANNUAL GENERAL MEMBERSHIP MEETING

January 23, 2016 —10:00 AM

Columbia, SC

Venue to be announced

BOARD OF DIRECTORS ELECTIONS

Elections will be held later this fall. Please watch for our annual mailing with ballots and candidate biographies. Only members in good standing will receive ballots for the election. If you are not sure of your membership status, please call (843) 720-1423 ex. 2, or email info@aclusouthcarolina.org for a status update.