

ACLU OF PENNSYLVANIA

DOCKET- SPRING 2005

FREEDOM OF SPEECH

(Allegheny Co.) A December 2004 lawsuit filed on behalf of an elected Township commissioner alleges that her colleagues retaliated against her after she publicly disclosed a budget deficit and criticized them for not addressing it. After her disclosure, the other commissioners improperly excluded her from important discussions regarding Township business and erected barriers to her getting information about Township activities. Court-ordered mediation having failed, a three-day trial took place in mid May. On May 16, the Court issued a preliminary injunction, holding that defendants' illegally *retaliated* against our client, thereby violating her First Amendment rights. Briefing for a final injunction is due in mid June. Smith v. Aleppo Township (W.D.Pa., Schwab, J.), *Strassburger (Strassburger, McKenna, Gutnick & Potter); Walczak*

(York Co.) Protester Dobson was billed more than \$3,000 for "police protection costs" stemming from a December 2003 rally/protest. In March 2004, the ACLU secured an injunction that prohibited the Township from collecting money from Dobson or enforcing its unconstitutional public assembly ordinance. In September 2004, the Township repealed its public assembly ordinance and replaced it with yet another unconstitutional version. In November 2004, the Township filed a motion to dismiss the case based on its repeal of the first ordinance. On May 13, 2005, Judge Yvette Kane denied most of the Township's motion, finding that the new ordinance still contained some of the provisions we challenged in the first law. The case is scheduled for trial in Harrisburg on July 11, 2005. Dobson v. Springettsbury Township (M.D.Pa., Kane, J.), *Knudsen, Walczak*

(Allegheny Co.) In mid-May, 2005, we received a complaint that Students in Solidarity (SIS), in conjunction with the Pittsburgh Darfur Emergency Coalition, was told by the University of Pittsburgh that they are not allowed to hold a protest on the lawn outside Pitt's Cathedral of Learning, where a Sudanese official was scheduled to give a lecture. Subsequently, the University moved the lecture to David Lawrence Hall. We negotiated with University security and officials to secure a protest location on the steps to the building, adjacent to the front door. *Walczak*

(Lancaster Co., PA) Thong-clad protesters were arrested in summer 2004 for recreating on a roadside a scene from the Abu Ghraib prison scandal just prior to a visit by President Bush. Disorderly conduct charges were withdrawn by the Lancaster County District Attorney in Fall 2004. The protesters filed suit against the arresting officers in December 2004. Discovery revealed the *federal* officials were *not* involved in the decision to arrest. We have settled the case with East Lampeter Township. Trial against the state police is scheduled for Fall 2005. Egolf v. Witmer (E.D.Pa., Diamond, J.), *Yoder, Hess (Gibble, Kraybill & Hess); Knudsen, Walczak*

(Allegheny Co.) Just prior to Election Day 2004, we filed suit on

behalf of canvassers from America Coming Together and America Votes challenging Monroeville and Mt. Lebanon ordinances that required permits and fees before anyone went door to door encouraging people to vote. While the restrictions were lifted to enable the canvassers to proceed over the weekend, the court eventually ruled Mt. Lebanon's law constitutional. Briefing in the Third Circuit has now been completed. The Jehovah's Witnesses have filed an amicus brief supporting our arguments. We await an oral argument date. SEIU v. Mt. Lebanon (W.D.Pa., Schwab, J.), *Healey, McKechnie (Healey & Hornack); Walczak*

(Washington Co.) We are representing a woman who was arrested for disorderly conduct in the parking lot of the Post-Gazette Pavilion before a country-music concert, for holding up a sign that said, "Show us your ..." and then had a picture of bare breasts. In late March 2005, the Superior Court, in a 2-1 decision, affirmed the conviction. On April 30, 2005 we filed a petition for allowance of appeal to the PA Supreme Court. Comm. v. Frank (Wash. Ct. Com. Pl., Pozansky, J.; Superior Ct.), *Millstein; Watterson (Reed Smith); Rosenfield; Walczak*

(Allegheny Co.) A Glassport Borough ordinance requiring political candidates to obtain a permit and pay a \$100 fee before they display signs on public property was being applied to private property. That meant that until the candidate posted the bond, a homeowner could not display that person's signs. On April 12, 2005, a telephone call to the solicitor explaining the law eliminated the restriction. *Walczak*

(Allegheny Co.) A March 2005 lawsuit charged that Baldwin Borough's ordinance prohibiting campaign signs on private property more than 30 days before an election violates the First Amendment. During a preliminary injunction hearing on March 10, the Borough agreed to eliminate all time restrictions on non-commercial signs. Our attorneys' fees demand is still unresolved. Fera v. Baldwin Borough (W.D.Pa., Hardiman, J.), *Carella, Hudson (Kirkpatrick & Lockhart); Walczak*

(Washington Co.) In early April 2005, we sent a letter to the North Franklin Township requesting that they immediately stop enforcing an ordinance that prohibits people from posting political signs on their own property until 30 days before an election. The Township agreed to the request. *Walczak*

(McKean Co.) In March 2004 we obtained a federal court order blocking the City of Bradford from fining three residents who displayed signs, some critical of the City's leadership, without first getting a permit. We argued that the people should not have to ask for permission or pay fees to post signs on their own property. A decision is pending in the Court on whether the City has increased leeway to regulate signs in a historic district. Riel v. City of Bradford (W.D.Pa., McLaughlin, J.), *Friedman (Ambrose, Friedman & Weichler); Walczak*

(Allegheny Co.) In late March 2005, the City of Pittsburgh advised the Pittsburgh Darfur Emergency Coalition that they must pay nearly \$400 in traffic-control fees in order to stage a 100-person march. An ACLU injunction from March 2004 prohibits the City from assessing such fees. The City backed down under a renewed legal threat. *Walczak*

(Allegheny Co.) Over a four-month period in late '03 and early '04, we won three federal court orders blocking the City of Pittsburgh from charging excessive police fees and requiring onerous insurance coverage for groups wanting to protest on public property. We are representing the NAACP, Thomas Merton Center and People Against Police Violence. The City has now re-written the ordinance to eliminate the user fees for First Amendment activity. The case is still pending while we await the City's implementing regulations. They are now due on June 1, 2005. PAPV v. City of Pittsburgh (W.D.Pa., Conti, J.), *Healey & McKechnie (Healey & Hornack); Walczak*

(Philadelphia) In April 2004 we obtained a preliminary injunction against enforcement of a Philadelphia ordinance that regulated the content of signs on public property and allowed public officials unfettered discretion to determine which signs could be posted. In January 2005 the City amended its ordinance to forbid all posting of signs on City poles, except for signs permitted under the Banner Program which, once again, uses content-based distinctions and gives City officials unfettered discretion to accept signs. The Court dismissed the case before we could respond. Our motion to re-open the case is pending. Bella Vista United v. City of Philadelphia (E.D.Pa., Padova, J.), *Kohart, Klear (Drinker Biddle & Reath); Caine (Temple Law School); Brink, Walczak, Roper*

(Allegheny Co.) In August 2004, we sent a letter to the Pittsburgh Police Chief on behalf of several police officers requesting that the Bureau correct six regulations that unconstitutionally restrict officers' speech rights, including a prohibition on any public comments about disciplinary matters and a requirement that statements to the media must be pre-cleared with the Chief. In September the Bureau agreed to most of our demands. We continue to negotiate over several minor provisions. *Walczak*

(Adams Co.) Former school board director challenged Littlestown Area School District's chain-of-command policy, which prohibits board members from speaking directly to employees. Preliminary injunction denied in September 2004. Trial scheduled for July 2005. Dehoff v. Littlestown Area School District (M.D.Pa., Kane, J.) *Knudsen, Roper*

(Allegheny Co.) We filed an amicus brief in June 2004 with the PA Supreme Court supporting *The Garden Theater*, the last adult-movie theater in downtown Pittsburgh. The City is attempting to use eminent domain not to close the theater but to force it to show non-adult movies. We are awaiting a decision. In the matter of New Garden Realty Corp. (PA. Supreme Ct.), *Francis, Sachse, Le Gower & Tolin (Dechert); Brink*

(Washington Co.) A 2003 lawsuit against the Bethlehem-Center School District, challenging a policy that prohibited employees from speaking directly to board members, is still ongoing. The case also includes whistleblower claims on behalf of an employee who was disciplined for publicly disclosing computer-related problems in the District. The district court dismissed the First Amendment claim on statute of limitation grounds. The remaining claims are awaiting trial. Drill v. Bethlehem Center School District (W.D.Pa., Hay, M.J.), *Long, Jones, Klutch & Totodo (Meyer Darragh)*

(Allegheny Co.) A 2003 whistleblower-suit, filed against Children & Youth Services on behalf of an employee who was discharged after she complained that a report she was overseeing had been whitewashed by the Director to eliminate negative comments about the agency, is scheduled to go to trial in Fall 2005. Fabian v. Allegheny Co. CYF (Agh. Ct. Com. Pl.), *O'Brien; Krakoff*

(Allegheny Co.) A 2002 lawsuit on behalf of four activists arrested by Pittsburgh police officers outside a Pirates' baseball game at PNC Park for distributing pamphlets criticizing major league baseball for selling merchandise made by foreign sweat shops is ongoing. Three years ago we secured a court order protecting protesters' rights to engage in political activity on the sidewalks surrounding the stadium. The court denied the City's summary judgment motion in February 2005. We are awaiting a trial date on the damages claim. Industrial Workers of the World (IWW) v. City of Pittsburgh (W.D.Pa., Lancaster, J.), *Healey, Akers, McKechnie (Healey & Hornack); Walczak*

See also, Cyber Liberties (all entries).

CYBER LIBERTIES

(Washington Co.) In April 2004, we obtained a federal court order on behalf of Internet-community-bulletin-board hosts to block a police chief from threatening to arrest people who posted messages on the site criticizing him, and from using illegal subpoenas to try to uncover his critics' identities. The case for damages is ongoing. On June 1, 2005, the court denied defendants attempt to unmask the identities of posters to the cite. A mediation is scheduled for June 28. Chavla v. Kavakich (W.D.Pa., Conti, J.), *Barber (Strassburger, McKenna, Gutnick & Potter); Walczak*

(Philadelphia) In July 2004 a Philadelphia Common Pleas Judge granted a motion filed by the law firm Klehr Harrison and ordered a man to remove a website that criticized the firm. The firm claimed the comments were defamatory. In January 2005 the ACLU filed an *amicus* brief in the Superior Court supporting the web host. We argue that even if the speech were proven defamatory, which it has not been, a court may not censor it because that would be an unconstitutional prior restraint. Oral argument was held in April 2005. We await a decision. Klehr Harrison v. JPA Development (Superior Ct.), *Feinberg (Kairys, Rudovsky, Epstein & Messing); Walczak*

RELIGIOUS LIBERTY

(Philadelphia) On March 1, 2005, the ACLU sued to halt the City of Philadelphia's termination of a Muslim firefighter who refuses to shave his beard, as required by Fire Department policy. The decades-old policy was originally enacted to ensure maximum effectiveness of the negative pressure respirators then in use and has not been updated despite advancements in respirator technology that, we claim, make the presence of a beard irrelevant. On May 31, in what we believe to be Pennsylvania's first ruling to interpret the state's Religious Freedom Protection Act, a Court of Common Pleas Judge granted the ACLU's

request for a preliminary injunction forcing the Philadelphia Fire Department to allow firefighter Curtis DeVaux to return to his job without shaving his beard. We presented expert testimony that DeVaux's beard poses no greater danger than any other facial feature. Firefighters with other potentially risky facial features are permitted to serve so long as they can demonstrate through a FIT test that they can use the respirator properly. We seek merely the same test for our client. DeVaux v. City of Philadelphia, (Phil. Ct. Com. Pl., Dych, J.), *Roper*

(Clarion Co.) Acting on behalf of local complainants, on April 29, 2005, we requested that the Keystone School District immediately cancel the scheduled prayer at the May 27 graduation. Despite U. S. Supreme Court decisions ruling such prayers unconstitutional, the District has included prayers for many years. We also requested that the District immediately cease beginning school board meetings with prayers. The prayers are given by the Superintendent and end with the words, "In Jesus' name we pray." On May 10 the District sent a letter agreeing to the demands. But after seeing media reports quoting the Board president to say he is looking for "a way around it," on May 26 we filed suit. The District agreed to sign a consent order stating that prayers will no longer be recited at graduation and board meetings. At the May 27 graduation, various speakers referred to their religious beliefs, but there were no prayers. Doe v. Keystone School District (W.D.Pa., Lancaster, J.).

(US) On May 16, 2005, the ACLU filed suit against the U. S. Department of Health and Human Services alleging that grants exceeding \$1.2 million over the past three years to The Silver Ring Thing, a Pittsburgh-located faith-based-abstinence program violated the Establishment Clause. Last year the ACLU Pittsburgh Chapter sent testers to a Silver Ring Thing program, who learned that Christian prayer and teaching pervaded the event. The group's website, twelve-step follow-up program and newsletter all invite young people to "come to Christ" and become abstinent until marriage. The lawsuit was filed in Boston. The ACLU of PA continues to work with national and Massachusetts ACLU lawyers, but we are not on the pleadings. The day after we filed suit, Silver Ring Thing removed most religious content from the website. ACLU of Massachusetts v. Leavitt, Sternberg, Corbin (Nat'l ACLU); Wunsch (MA ACLU); Mach (Jenner & Block); Walczak

(Allegheny Co.) Allegheny County would not give a couple a self-uniting marriage license without verification that they were members of the Quaker or Bahai church. They were not. On May 18, 2005, we met with the Orphan's Court solicitor to resolve the dispute. The County has agreed to give the couple this marriage license. *Litman*

(U.S., PA & Bradford Co.) In February 2005 we filed suit on behalf of local taxpayers and a former inmate alleging that government agencies were giving money, and not monitoring its use, to a faith-based prison-work-release program that used it for worship activities and to proselytize prisoners. The U. S. government and the Firm Foundation have moved to dismiss the case. We have brought in a big DC law firm, Arnold & Porter, to help with the case. Also, the ACLJ, the Alliance Defense Fund and the Christian Legal Society have entered appearances in the case on behalf of Firm Foundation and Bradford County. Moeller v. Bradford County (M.D.Pa., Munley, J.) *Roper*,

Knudsen, Walczak (ACLU); Katskee, Luchenitser (Americans United for Separation of Church and State)

(York Co.) In December 2004 we sued the Dover Area School District on behalf of eleven parents who objected to the recent policy that required the teaching of *Intelligent Design* in biology classes as an alternative to evolution. We allege that *Intelligent Design* is stealth creationism and, therefore, teaching a religious doctrine in science class violates the Establishment Clause. In March 2005 the court denied an attempt by parents who want *Intelligent Design* taught to intervene in the case. The judge also denied the school district's motion to dismiss parent plaintiffs whose children had either already completed ninth-grade biology or were still 7-8 years from being taught it. We are in the midst of extensive discovery, including depositions of nearly 20 expert witnesses. In mid-May, Judge Jones denied attempts to prevent us from getting a copy of the as-yet-unreleased copy of the latest *Intelligent Design* Book. The book publisher, the Texas-based Foundation for Thought and Ethics, filed papers on May 23 to intervene in the case. We will oppose the request. The case is scheduled for trial in late September 2005. Kitzmiller v. Dover Area School District (M.D.Pa., Jones, J.), *Rothschild, Harvey, Schmidt, Mather, Farber (Pepper Hamilton); Katskee, Luchenitser (Americans United for Separation of Church and State); Knudsen, Walczak (ACLU)*

(Allegheny Co.) In April 2005 we convinced Turtle Creek Borough to grant an occupancy permit to a predominantly African-American church, Ekklesia, which had purchased a church building from a predominantly white parish. The Borough raised one problem after another, most having no merit, to deny the permit. Ekklesia Church v. Borough of Turtle Creek, *Pushinsky; Sternberger*

STUDENTS' RIGHTS

(Beaver Co.) In April 2005, police arrested a 13-year-old Riverside Beaver High School student, Anthony Latour, for allegedly threatening another student. The boys were engaged in a "Rap" music challenge, where the boys posted their songs on the Internet. A police SWAT team searched the house, seized all computers and recording equipment, but found no weapons. Anthony was detained for six days before being released. The school then learned that six months ago Anthony had released a CD that included a song about two boys engaging in a Columbine-type massacre. On May 17, the District expelled Anthony for two years. We represented Anthony at the hearing and are now preparing a lawsuit. While the music lyrics are graphically violent, they do not rise to the level of "true threats," and are, thus, constitutionally protected. If schools can expel students and police can arrest people for simply writing violent lyrics, Rap music is in jeopardy. *Watterson (Reed Smith); Millstein; Walczak*

See also, Religious Liberty (Kitzmiller v. Dover Area School District).

GAY RIGHTS

(Lehigh Co.) The ACLU has joined with the Pennsylvania Human Relations Commission and other groups to support an Allentown ordinance that prohibits discrimination on the basis of

sexual orientation and sexual identity. Gay rights opponents claim the ordinance is preempted by the Pennsylvania Human Relations Act, which does not regulate discrimination on those bases. The Lehigh County Common Pleas judge rejected the challengers' preemption arguments, but nonetheless struck down the ordinance as applied to employers and other businesses because of an obscure provision in the Home Rule Act that, the court said, prohibits a Home Rule municipality like Allentown from imposing any obligations on businesses that are not specifically authorized by state law. That decision has been appealed to the Commonwealth Court, where the ACLU has again filed an *amicus* brief supporting Allentown's ordinance. Argument was heard in April 2005. Hartman v. City of Allentown, *Posner, Meyerov (Drinker Biddle & Reath); Cahn (Blank Rome); Roper*

CRIMINAL JUSTICE

(Allegheny Co.) A nine-year-old lawsuit against the County over the adequacy of the Public Defender's office is nearing an end. Under a consent decree signed in 1998, the County has nearly doubled the size of the office and otherwise improved services. In January 2005 our argument that the County still needs to make more improvements in the quality of representation was rejected by an arbitration panel. While the consent decree's staffing requirements remain in effect until year's end, the rest of the decree's provisions have expired. A termination hearing was held on April 6, 2005, where the judge praised our work to improve the PD office. Doyle v. Allegheny Co. (Agh. Ct. Com. Pl., Horgos, J.), *Davidson; Farrell (Reich, Alexander, Reisinger & Farrell); Dahlberg (Nat'l ACLU); Walczak*

(Philadelphia) We have sued the Pennsylvania Department of Probation and Parole charging that requiring fliers be passed out in the neighborhood of all out-of-state sex offenders paroled to Pennsylvania, even without any evidence the offenders are dangerous, violates the Equal Protection Clause because in-state offenders are not subject to the same treatment. We have also alleged that the failure to give any procedural due process violates the due process clause. Oral argument on summary judgment motions was held in November 2004. We await the court's decision. D.T.C. v. Dept. of Probation and Parole (E.D.Pa., Pollak, J.), *Kerrigan; Walczak*

See also, Prisoner's Rights (all entries).

CHILDREN'S RIGHTS

(PA; Beaver, Washington, Lancaster, Monroe, Montgomery & Philadelphia Counties) A class action lawsuit filed in 2000 against Pennsylvania and six counties seeking to require all child-welfare agencies to pay equal foster-care payments to was settled in March 2005. The Court approved the settlement on March 14, 2005. It requires the state to issue new regulations clarifying kinship-caregivers' rights to equal subsidies and forcing counties to provide written notice of those rights when children are seized. Payments will be made to "certified" foster-care givers. We are still awaiting disbursement of payments to named plaintiffs and attorneys' fees. Anderson v. Houstoun (E.D.Pa., Kauffman, J.), *Levick (Juvenile Law Center); Walczak*

(Beaver Co.) A 2003 lawsuit filed on behalf of a young mother

whose two infant children were taken away by Children & Youth Services, in separate incidents, without reasonable justification and with insufficient due process protections, continues in federal court. In 2003 we regained custody of the children for the mother. A hearing on cross motions for summary judgment was held on March 16, 2005. We await a decision. Underwood v. Beaver County CYS (W.D.Pa., Hardiman, J.) *Mahood, McKinley (Wilder & Mahood); Luciano, Benson, Berks, Fader, Pociernicki, Lambert, Berkun (Kirkpatrick & Lockhart)*

See also, Immigrants' Rights (In re Pacheco).

PRISONERS' RIGHTS

(Allegheny Co.) In December 2003 the ACLU obtained a federal court order requiring the County Sheriff to allow a mother to visit her son, who had been shot by the police and was in a hospital's intensive-care ward. We are now challenging the department's policy of prohibiting family visits to prisoners in the hospital. In March 2005, the court entered summary judgment for the Sheriff on the First Amendment association claim, leaving only the procedural due process issue. Summary judgment briefs on the remaining constitutional claims are due in mid-June, 2005. Livingston v. Allegheny Co. Sheriff's Dept. (W.D.Pa., Ambrose, C.J.), *Walczak*

(PA) The ACLU has joined with court-appointed counsel in a class action on behalf of Pennsylvania inmates who have been denied parole as a result of their refusal to participate in a sex-offender treatment program that requires them to acknowledge guilt for sex offenses for which they have been convicted and to reveal other potentially chargeable sexual conduct, despite the pendency of an appeal or other challenge to the conviction. The district court dismissed the Fifth Amendment claims in Fall 2004 and set the named representative's remaining claims for trial in Summer 2005. We will appeal the dismissal of the Fifth Amendment claims (which the court refused to certify for interlocutory appeal) after the trial of the remaining individual claims. Wolfe v. Corbett (E.D.Pa., Robreano, J.), *Brown, Meyerov, D'Ambra (Drinker Biddle & Reath), Roper*

See also, Criminal Justice (all entries).

RACE DISCRIMINATION

(York Co.) An African American off-duty Pennsylvania state trooper was pulled over by two white York County Deputy Sheriffs. A lawsuit alleging racial profiling was filed in May 2004. Cross motions for summary judgment are now pending before the court. While trial is scheduled for July 2005, we expect that to be postponed pending the court's decision on the motions. Christopher v. Nestlerode (M.D.Pa., Conner, J.), *Gildin; Knudsen*

(York Co.) An African-American student was being harassed and threatened at school by white students. After a name-calling session initiated by white bullies in the high school parking lot in January 2005, the African-American student was charged with disorderly conduct, but the white students were not criminally charged. We are defending against the criminal charge and will consider civil action thereafter. Commonwealth v. Student, *Freese (Miller, Poole & Lord)*

See also, Religious Liberty (Ekklesia Church v. Borough of Turtle Creek).

IMMIGRANTS' RIGHTS

(Luzerne Co.) In January 2004, CYS removed three children from the Pacheco's home after a school nurse saw a bruise on the 14-year-old son. Neither the agency nor the court provided the Spanish-speaking Pacheco's an interpreter. Despite no abuse allegations involving the two younger children, the Pacheco's were not allowed to see them again for nearly a year. Criminal charges stemming from the alleged abuse of the 14-year-old were dismissed in February 2005. The two younger children are now regularly visiting with the parents and are scheduled to return home in April 2005. An investigation, prompted by the ACLU's complaint, continues by the U.S. Department of Health and Human Services' Office for Civil Rights. In re: Ana and Alberto Pacheco (Luzerne Ct. Com. Pl.), *Knudsen*

(U.S., Allegheny Co.) After more than a year of legal wrangling, in September 2004 we lost our attempt to prevent the deportation of a young Jordanian student at LaRoche College, who neglected to register under the now-defunct special registration program. The failure was innocent, due to a crushing school and work schedule. In July 2004, the student was detained for nine days after the government classified him as a "level one security threat." He was released inexplicably after major media outlets began writing about the detention. An administrative appeal to the Bureau of Immigration Appeals is pending. U.S. v. Abu-Snaine, *Whitehill (Fox Rothschild); Goldfaden & Guttentag (Nat'l ACLU Immigrants' Rights Project); Walczak*

PRIVACY

(PA) The ACLU filed an amicus brief in the PA Supreme Court supporting the Pennsylvania State Police in arguing that under PA law, county sheriffs do not have wiretapping authority. Oral argument was held in April 2005. We await the court's decision. Kopko v. Evans (Pa. Supreme Ct.), *Makadon, Rodgers & Wyatt (Ballard Spahr); Brink; Frankel; Walczak*

DUE PROCESS

See, Children's Rights (Anderson; Underwood); Criminal Justice (all entries); Rights of the Homeless (Sager); Immigrants' Rights (In re Pacheco).

ACCESS TO GOVERNMENT INFORMATION

(U.S) ACLU affiliates in ten states filed FOIA requests in May 2005 seeking documents related to improper investigation of law-abiding human rights and advocacy groups and intimidation based on political association by FBI and local police. The ACLU charges that the FBI is wrongfully withholding thousands of pages of documents, and filed a lawsuit in federal court to compel the FBI to comply with the FOIA requests. Organizations throughout Pennsylvania have filed FOIA requests, including Philadelphia's Bread and Roses Community Fund, the Pittsburgh-based Thomas Merton Center, the Lehigh-Pocono Committee of Concern (LEPOCO) and two York-based organizations: the Coalition for Immigrants' Rights at the Community Level (CIRCL) and the York County Committee

against Racism. Three organizations from Erie County are also participants: the Lake Erie Region Conservancy, the Allegheny Defense Project and the Erie County Environmental Coalition. The few documents received through the December FOIA requests shed light on the FBI's misuse of Joint Terrorism Task Forces (JTTF) to engage in political surveillance.

(U.S.) We are representing a Southwestern PA veterans group, *Coalition of Veterans Advocates* in their attempt to get information about the closing and consolidation of Pittsburgh VA hospitals. The Veterans Department denied a fee waiver and advised the group that they would have to pre-pay \$32,000 to get the documents. In March 2005 we filed an administrative appeal and expect the case will go to federal court. We await the response from the Department's DC headquarters. COVA v. Dept. of Veterans Affairs, Whitson, Diedrich (Schnader Harrison); Walczak

See also, Voting Rights (Tessitor v. Allegheny Co.).

RIGHTS OF THE HOMELESS

(Allegheny Co.) We continued to monitor a 2003 agreement in our class action lawsuit against the City of Pittsburgh on behalf of unsheltered-homeless people. The suit alleged that City clean-up sweeps resulted in the destruction of property without due process and notice. In 2004 we alerted the City to several violations of the agreement, but all were resolved without court action. In May 2005 we learned that the City appears to have stopped storing the property, as required by the decree. We are investigating. Sager v. City of Pittsburgh (W.D.Pa., Ambrose, C.J.), *Walczak*

VOTING RIGHTS

(Allegheny Co.) An August 2004 lawsuit on behalf of the *Pittsburgh Interfaith Impact Network (PIIN)*, the *Gertrude Stein Political Club of Greater Pittsburgh*, the *Western Pennsylvania Black Political Assembly* and others challenging the County's discriminatory \$1000 charge for computer disks with voter-registration data, while giving free copies to major political parties, resulted in a court order requiring the County to make the data available for \$50, or free if the applicant was indigent. The data disks became important during the subsequent election when numerous people were excluded from voting because they allegedly failed to register. We still need to finalize the agreement and negotiate damages for groups who paid \$1000 for the data. Tessitor v. Allegheny County (Agh. Ct. Com. Pl., James, P.J.), *Walczak*

POST-9/11 WAR ON TERRORISM

(Philadelphia) In March 2005, the ACLU was called upon to help a Philadelphia resident and single mother who opened her door late one night to find a half-dozen federal agents and two uniformed police officers on her front porch. When she denied them admission (they did not have a warrant), the federal agents forced her door open and terrorized her with accusations that she was a wanted fugitive and demands for personal information and proof of her identity. After interrogating her and her sixteen-year-old daughter, the agents forced the woman to accompany them to the Federal Building where fingerprinting revealed that

she was precisely who she claimed to be. We are examining possible remedies for the victims of this home invasion. *Roper*

(Allegheny Co.) The ACLU office continued to work closely with the Islamic community to provide representation for dozens of people questioned by the FBI and to advise local Mosque leaders about their members' constitutional rights. The most recent interviews occurred in May 2005. *Healey (Healey & Hornack); Farrell (Reich, Alexander, Reisinger & Farrell); Manifesto; Levenson; Whitehill (Fox Rothschild); Deasy; Roe (Watkins Dulac & Roe); Walczak*

(U.S.) The ACLU has raised privacy and due process concerns with the proponents of a new federally-funded program called the Strategic Medical Initiative (SMI). The program calls for physicians to report to the FBI "suspicious" activity that is possibly related to bio-terrorism. Discussions about program details continued in May 2005. *Calabrese, Steinhart & Bowles (Nat'l ACLU); Feige, Walczak*

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