FREE FOR ALL



Count every vote

— page 6

FALL 2022

THE WORK OF PROTECTING DEMOCRACY



By Reginald T. Shuford Executive Director

The 2022 general election has ended, and we had our hands full in protecting voting rights this year. In coordination with other organizations in the Election Protection Coalition, the ACLU-PA team prepped and planned for the 2022 midterm elections like we would in a presidential election year.

Election protection is a multi-pronged project, and ACLU-PA is responsible for organizing and leading the command centers, with Common Cause-PA leading the volunteer poll monitors. In the command centers, our team monitored and responded to complaints that came into the election protection hotline, 866-OUR-VOTE, from across Pennsylvania.

On Election Day, the hotline, which is administered by our friends at the Lawyers Committee for Civil Rights Under Law, received 728 calls from Pennsylvania. Another 1,625 Pennsylvania-based calls came in from November 1 - 7, and the hotline received a total of 3,185 calls from October 1 - November 8.

Here's what election protection looks like in action:

We were in court in Northampton County to help an 81-year-old homebound woman with disabilities who needed a replacement ballot that the county refused to deliver. We won.

Our volunteers spent several hours at the Philadelphia Veterans Administration Community Living Center helping five veterans get replacement mail-in ballots after theirs failed to arrive.

Two ACLU-PA lawyers advised a nonprofit group of college students who assisted patients in hospitals in Southeast PA in getting emergency absentee ballots. Eighty-five hospitalized voters were able to vote because of this effort.

Fortunately, the worst case scenarios that we prepped for did not materialize. By and large, the kinds of problems that were reported were typical - voting machines that malfunctioned, polling places that opened late, poll workers inappropriately asking for ID. These are the types of mistakes that we normally encounter in any election.

The expansion of vote-by-mail in Pennsylvania has increased the need for voter assistance in the weeks leading up to Election Day. This year, in particular, some voters had to scramble to fix mistakes with their ballots after the Pennsylvania Supreme Court ruled that mail ballots without handwritten dates or incorrect dates on the return envelopes could not be counted.

After the court's ruling, we sent a letter to 20 counties, encouraging them to enter those ballots into the statewide SURE system so that the voters would be notified and could either fix their mistake or vote a provisional ballot at the polls.

Get-out-the-vote groups then did the taxing work of informing voters of their mistakes.

We also wanted to be ahead of any misinformation that voters may have encountered in the weeks and months leading up to Election Day, so we engaged in voter outreach in more than a dozen priority counties. We printed and distributed more than 30,000 pieces of "know your rights" materials, ran a series of social media ads, and placed spots directing listeners to our website and the election protection hotline on Spanish radio stations in Philadelphia, Lancaster, Reading, and Allentown.

Even with Election Day 2022 in the rearview mirror, the work goes on. On November 4, we filed a new federal lawsuit because disqualifying mail ballots without a handwritten date on the return envelope is illegal under the Civil Rights Act. (See page 6.) That lawsuit was filed on behalf of six voting rights organizations. As I write this, the case is still active.

This country has a rich history of both voting expansion and voting suppression. At the ACLU of Pennsylvania, we have dedicated ourselves to expanding the franchise so that everyone who wants to participate in democracy has the chance to do so.

Reggie Shuford, Executive Director ACLU of Pennsylvania

THE FALLOUT OF THE END OF ROE

The moment we had all been anticipating with dread came on June 24, when the U.S. Supreme Court overturned Roe v. Wade. The court wiped away 49 years of its own precedent. The fallout of that decision is serious and is impacting Pennsylvania.



ACLU-PA joined lawmakers, partners, and concerned Pennsylvanians at the capitol in September to protest an anti-abortion constitutional amendment (see page 3)

Abortion is still legal in Pennsylvania. And because it is, patients from states where severe abortion restrictions and bans have been passed and enforced are traveling here to get the care that they need. This situation is overwhelming clinics in the commonwealth, especially in

Pittsburgh, with its close proximity to Ohio and West Virginia.

What can you do in this moment? The ACLU is fighting bans - through lawsuits and advocacy action - whenever

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FROM THE PRESIDENT



Dear ACLU-PA supporter,

The ACLU has been proudly and adamantly nonpartisan for all of our hundred-yearplus history. The

ACLU does not endorse or oppose individual candidates (or nominees, ordinarily) for public office.

But, of course, that does not mean we are nonpolitical. The civil liberties issues we care deeply about are often under active debate in the political arena. How we continue to be heard in those debates presents a continuing challenge, as some of our adversaries may try to use our political action to attack us falsely as partisan. Nevertheless, we hold to our principles, which is the only true path toward progress.

Today, this challenge presents itself dramatically in a number of contexts. Sometimes, we stand against the mainstream of both political parties, as with our advocacy for a fair criminal legal system. But, in others, the proposals we oppose, or the reforms we seek, are aligned almost exclusively with the public position of one major party and not the other.

In that situation, we may engage in voter education or even post "issue ads." But we will never suggest that voters support or reject a candidate, no matter how tempting. This remains our steadfast commitment even if one major party candidate for a high state office will not commit to honoring the result of a fairly conducted election, makes clear that they do not support religious neutrality in government, or wants Pennsylvania to go backward on abortion access - or even all of the

We have sometimes been misunderstood, by both friends and adversaries. We do our best to prevent such misunderstandings and to educate the public about civil liberties issues, the ACLU, and its proud history of adherence to principle. We are committed to the belief that, in the long run, maintaining our nonpartisanship will best serve the cause of defending and advancing the equal rights of all.

Peter Goldberger President, ACLU-PA Fallout, continued from page 1

and wherever they occur. Your financial support keeps that effort going.

ACLU-PA also encourages our members to consider supporting organizations that are working to ensure that people who need abortion care can get it, particularly clinics, like Planned Parenthood and Allegheny Reproductive Health Center, and abortion funds, the mutual aid organizations that provide financial assistance to patients. Those include Abortion Liberation Fund and the Western PA Fund for Choice.

The Supreme Court's decision in Dobbs v. Jackson Women's Health Organization was a mass criminalization event. That aspect of the court's ruling has been less discussed but is critically important. The ACLU of Pennsylvania supports both abortion rights and access and decarceration, and the mingling of reproductive healthcare and the criminal legal system is deeply disturb-

When politicians criminalize abortion, it means that police and prosecutors will investigate pregnancies. Even before Dobbs, there were several cases of women being imprisoned for their pregnancy outcomes. That will only increase as more states ban abortion, and it doesn't take a crystal ball to know who will bear the brunt of this criminalization - Black women, other women of color and low-income women, all of whom are traditionally the targets of our criminal legal system.

Generations of Americans have had the right to an abortion and built their lives around that expectation. The court has taken the country backwards. The hard work of getting that right back starts

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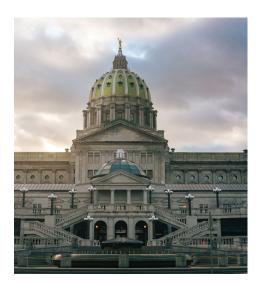
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The official registration and financial information of the American Civil Liberties Union of Pennsylvania may be obtained from the Pennsylvania Department of State by calling toll-free, within Pennsylvania, 1-800-732-0999. Registration does not imply endorsement.

THE MIDNIGHT RAID ON OUR RIGHTS



Did you ever have a parent tell you, "Nothing good happens after midnight"? In the Pennsylvania General Assembly, nothing good happens after 11 p.m.

On July 7, with no public notice, the state Senate waived its rule banning votes after 11 at night and amended a bill that was already packed with four constitutional amendments to add a fifth - a proposed ballot question to end the state constitutional

right to abortion. The next morning, the Senate passed the bill, with all Republicans, one Democrat, and one independent voting in favor. That evening, the state House did the same.

A constitutional amendment must pass the legislature twice in consecutive sessions with identical language and then be approved by a simple majority of voters. This was the first vote on these five amendments; a second vote could come as early as January, when lawmakers convene for their new two-year session. Pennsylvanians could vote on these ballot questions as early as the 2023 primary in May.

The amendments can be described as nothing less than a raid on our rights and a power grab by the Republican majority in the legislature. The five amendments would:

- End the state constitutional right to abortion;
- Mandate all voters at all elections to show unexpired, governmentissued identification;
- Allow the legislature to overturn any executive branch regulation

- with a simple majority vote, which currently requires a two-thirds vote:
- Shift responsibility for oversight of elections from the county election offices to the auditor general, who has no expertise in elections;
- End the election of the lieutenant governor, replacing it with a party-appointed system.

This package is a disaster for every-day Pennsylvanians and the balance of power in Harrisburg. The majority in the legislature is trying to pave the way to ban abortion outright in Pennsylvania, without constitutional protection, and to disenfranchise hundreds of thousands of voters with a strict voter ID requirement. And they want to take regulatory decisions out of the hands of experts and turn them into political footballs, with major impacts on education, health, labor, the environment, and more.

Learn more about this legislation at **aclupa.org/TheBigCon**. These amendments may be coming to a ballot near you in 2023. ■

CENTRAL BUCKS' HOSTILE ENVIRONMENT FOR LGBQ&T STUDENTS

Throughout this year, ACLU of Pennsylvania staff have been meeting with and hearing stories from students, parents, teachers, and community stakeholders in the Central Bucks School District in Bucks County about the environment in the district's schools for LGBQ&T students. We have heard heartbreaking stories of harassment and bullying of students by their classmates, with administrators often displaying indifference or even hostility toward the students who are being harassed.

Some transgender students won't eat lunch in the cafeteria because it is where the bullying is its most intense. They eat lunch in a hallway or in the guidance office or even in a bathroom. Some trans and gender nonbinary students are so tormented by their classmates and lack of support from the district's adults that they don't

want to go to school at all. And a new, hostile majority on the school board is compounding the problem by passing policies that effectively erase the visibility of LGBQ&T kids. The board majority has gone so far as to ban pride flags from being displayed in school and to create a process for removing LGBQ&T-themed materials from the libraries.

After a five-month investigation, the ACLU-PA team concluded that there is a hostile environment at Central Bucks for LGBQ&T students and that the district is in violation of federal nondiscrimination law and the constitutional demand for equal protection. To remedy this, the ACLU-PA filed a complaint with both the U.S. Department of Justice and Department of Education in October on behalf of seven trans and gender nonbinary students. The complaint



asks the agencies to investigate the district and require it to remedy the situation by at least following DOE's recommendations for classroom inclusion of trans and gender nonbinary students. Weeks later, the Department of Education informed the district that it is opening an investigation.

A redacted version of the complaint is available at **aclupa.org/ CentralBucks**. The complaint is partially redacted to protect the identities of the seven students, all of whom are minors.

POLICE DEESCALATION PROGRAM EXPANDS IN PHILADELPHIA

A successful pilot program to minimize interactions between Philadelphia police and people engaged in minor violations has expanded to a total of six police districts across the city. The program started in a single district in Northwest Philly in the summer of 2021 and is the latest effort to enforce the settlement agreement of an ACLU-PA lawsuit challenging stop-and-frisk by city police.

The ACLU of Pennsylvania and the law firm Kairys, Rudovsky, Messing, Feinberg & Lin sued the city in 2010 on behalf of eight Black and Latinx men who were stopped by Philadelphia police solely due to their race or ethnicity and without legal justification. In 2011, the city agreed to a court-enforced settlement agreement that remains in effect.

While the total number of stops and frisks has dropped and the percentage of illegal stops is also down, Philadelphia police continue to stop Black people at a rate disproportionate to their percentage of the population, especially in neighborhoods where they



Yordanos Mengistu (left) and Yahaira Galarza (right) prepare to speak to people waiting outside a food pantry in Northeast Philadelphia about voting rights and their rights when they are stopped by the police.

are in the minority of residents.

Under the expanded pilot program, police in the six districts will not detain people engaged in any one of a list of minor violations and will instead ask people to stop the behavior and, if possible, to move along. Police will only detain the person if they refuse.

The list of violations includes open

containers of alcohol, public consumption of marijuana, disorderly conduct, and noise complaints. Police still respond to calls about these behaviors but engage people with the less-confrontational approaches dictated by the pilot program policy.

The program was successful in the first district where it was rolled out in 2021, so the city agreed to expand it to five additional districts, which are scattered in Center City and Southwest, South, North, and Northeast Philly.

ACLU-PA is supporting the initiative with a community ambassador program. Several ambassadors were hired to canvas the affected neighborhoods with information about the program. Ambassadors attend community events, engage business owners and canvas the streets to talk to residents most likely to be stopped by police. Ambassadors also are conducting surveys of residents, who they find largely support the pilot program.

More information is available at aclupa.org/policestops. ■

IT'S TIME TO DECRIMINALIZE SEX WORK

Sex work and sex workers have been around as long as people have been engaged in commerce. Despite being one of the oldest professions on the planet, sex work remains a taboo to many people.

The term "sex work" encompasses a wide range of workers, including dancers in strip clubs, performers on OnlyFans and similar websites, and adult film actors. Sex workers are also those who are in the business of selling in-person sex, whether on the street or online. Those who sell in-person sex on the street are the most vulnerable workers in this industry and would benefit the most from the destigmatization and decriminalization of sex work.

Because of the persistent taboo around sex work, in most communities in Pennsylvania and across the nation, sex workers face arrest and incarceration for doing their jobs. A run-in with police can also lead to coerced sex. The threat of being targeted by police drives many sex workers into situations that can often lead to sexual abuse, physical violence, or worse.

An arrest on charges of sex work can prevent someone from accessing an accurate ID, jobs, housing, healthcare, and other services. It can also lead to deportation for undocumented immigrants. Sex workers already face discrimination in many of these systems, and a criminal record and these collateral consequences further marginalize and stigmatize them.

In LGBQ&T communities that are already overpoliced, sex workers are at a disproportionate risk of arrest. This is a vicious cycle, especially for trans people.

We must end the prosecution and



incarceration of workers in an industry that has always been and always will be here. Sex workers should be able to maintain their livelihood without fear of violence or arrest, access health care without discrimination, and seek justice when they are harmed.

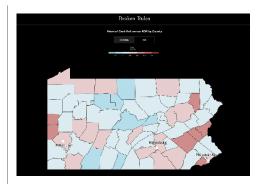
It's time to decriminalize consensual adult sex work and ensure the safety of sex workers. ■

NEW ACLU-PA WEBSITE ILLUSTRATES BROKEN CASH BAIL PRACTICES

Last year, ACLU-PA released a first-of-its-kind report, "Broken Rules: How Pennsylvania Courts Use Cash Bail to Incarcerate People Before Trial," which took a deep dive into bail data from each of the 67 counties in the commonwealth. The data is from 2016-17, the last year statewide bail information was available.

Our analysis found that judges across Pennsylvania regularly assign unaffordable cash bail in violation of state law. There were also clear racial disparities in every corner of the state, as Black Pennsylvanians were more frequently assigned cash bail, and at higher rates than white Pennsylvanians.

Now, we've launched a new website featuring interactive visualizations of the data from the report. We hope that this website will help courts, advocates, and journalists better understand bail practices across the commonwealth. We also hope that the report will remind Pennsylvania judges that the law obligates them to consider a person's ability to pay when assigning cash bail. The vast majority of incarcerated people in Pennsylvania



are pretrial and behind bars because they are unable to pay bail.

Check out the new website at **brokenrulespa.org**.

VOLUNTEER PROFILE: MARGARET WATTS

Name: Margaret Watts Hometown: Edinboro, Pennsylvania

What do you do as a volunteer for the ACLU of Pennsylvania?

Coming from the Northwest Chapter, which encompasses 10 counties, volunteerism is a wideopen proposition. As an ACLU-PA board member, I recognize the need to expand ACLU's presence through social outreach, tabling, and educational programs to create a network of citizens who share common civil liberty values and concerns. I believe my role is to give responsive and reliable attention to support individuals and marginalized groups in need of opportunities for their voices to be heard and inequalities repaired. Collectively, our bond is growing membership and engagement. I

keep my ear to the ground for relating community concerns, responses, and additional information relating to youth violence and the expansion of police within a local school district. I monitor county election meetings as a Project Transparency participant for election protection initiatives and attend trainings for ACLU-PA's Voter Ambassador Program.

Why is volunteering with the ACLU of Pennsylvania important to you?

I see my volunteerism as an extension of my role as an educator. Finishing up my career in public schools,





teaching the youngest students and giving them a foundation in essential skills and creativity related to their development, my goal was to be a facilitator for understanding everyday life experiences that not only they shared within their community but could learn about and appreciate challenges confronting others, while developing empathy towards those who may be beyond their purview.

What civil liberties issues are you most passionate about and why?

Having personal relationships with folks most affected by injustice and knowing about the threats to their civil liberties get my immediate attention. Their experiences with school policies that contribute to the school-to-prison-pipeline, the inhumane obstacles faced by the incarcerated and formerly incarcerated individuals, and systemic and structural biases limiting individuals' full experience of our democracy are always at the forefront of

my daily life.

Who is your civil liberties hero and why?

I meet everyday people who are conscientious, selfless, and are passionately working for improving the lives of others. I recognize our ACLU-PA staff are such people. Many of the folks I know come from first-hand experiences who are closest to the problems. They should be given opportunities to share their stories, offer solutions, and achieve positions where they can affect change. These folks carry heavy emotional responsibility. They are my heroes.

FREQUENTLY ASKED QUESTIONS WITH...JULIE ZAEBST

Julie Zaebst is a senior policy advocate for the ACLU of Pennsylvania. A social worker by training, Julie's policy expertise includes reproductive healthcare, LGBQ&T equality, and women's rights in the criminal legal system.

The Dobbs decision was obviously devastating and continues to reverberate. What was your reaction when you heard about the ruling?

I was in a meeting with colleagues when I heard about the Dobbs decision, and it was like a punch to the gut. After the draft decision leaked in May, there was no doubt that the Supreme Court was going to eviscerate abortion access in this country. Yet, somehow, it didn't feel totally real for me until it became official on June 24. I didn't know what to do with myself. I took a few press calls, prepared for an evening rally at City Hall and then ... I got a pedicure. That may sound silly, but this will be a long fight, and self-care will be critical for all of us.

You're an Ohio native, and when you visited this summer, you had



a casual encounter that touched the issue of abortion access. What happened?

On the way to visit family this summer, I stopped at a supermarket near Youngstown to use the restroom and pick up groceries. There was a store em-

ployee in the stall next to mine, talking on the phone about how her period was late. So far, her pregnancy tests had been negative, but she was anxious that she might not get a positive test result until after six weeks, at which point she couldn't get an abortion in Ohio. The employee was still on the phone when we were leaving the restroom, so I just slipped her my card with a note to contact me if she needed to come to Pennsylvania for care.

This all happened less than two weeks after the Dobbs decision, less than 30 minutes after I crossed the state line into Ohio. It was a devastating reminder of how quickly abortion access could disappear and how urgently it affects the lives of everyday people.

You frequently talk with our partners who are providing abortion

services. What are you hearing about the state of access?

Providers all over the state have been impacted by the increased number of patients coming from out of state, but

Pittsburgh has been hit especially hard. Allegheny Reproductive Health Center and Planned Parenthood Western Pennsylvania are the only two providers in Pennsylvania that are located west of Harrisburg, and they are seeing huge numbers of patients from Ohio and West Virginia. It can be hard to get through on the phone lines, and it can be hard to get an appointment quickly. As a result, more patients are traveling east, to providers in the middle of the state or even in Philadelphia.

The folks who were most impacted by abortion restrictions pre-Dobbs are also bearing the brunt of these new bans: people of color, especially Black folks, low-income people, young people, and people who are already parents. For folks who are struggling to make ends meet, it can be really challenging to take time off work, line up childcare, and then travel to get basic healthcare that should be available in their own communities.

COURT RULES IN FAVOR OF VOTERS, ORDERS COUNTING OF BALLOTS WITH UNDATED ENVELOPES

In the 2021 general election in Lehigh County, 257 eligible voters returned their mail and absentee ballots in time to be counted. But on the way to being tallied, they hit an administrative snafu. They had mistakenly forgotten to handwrite a date on their return envelopes.

After two lower state court decisions in favor of disqualifying the ballots, the ACLU of Pennsylvania entered the dispute in January, on behalf of five of the 257 voters. While the requirement to date the envelope is based in state law, a provision of the federal Civil Rights Act of 1964 prohibits ballots from being disqualified on technicalities that are not relevant to the voter's eligibility or the timely return of their ballot.

Everyone involved in this case agreed that the 257 voters with undated envelopes were all eligible voters who returned their ballots in time to be counted, and the election board datestamped each envelope upon receipt.

After a federal district court first ruled against our voter clients, the United States Court of Appeals for the Third Circuit found in May that the ballots of all 257 voters were being disqualified on a technicality irrelevant to their eligibility and should be counted. In June, the United States Supreme Court declined to hear the case. With the decision in hand, the county certified the election, with the 257 additional ballots counted. The additional votes affected the outcome of a judicial race.

In October, the Supreme Court vacated the appeals court decision for procedural reasons, but the ballots had been



counted and the election certified. The consequence of the Supreme Court's decision is that the appeals court's decision is no longer binding precedent. Nonetheless, ACLU-PA's goal of keeping these voters from being disenfranchised was achieved.

Learn more about this case at aclupa.org/LehighBallots.

NEW STAFF AT THE ACLU OF PENNSYLVANIA

Since the last issue of this newsletter, we've welcomed several new members to our team.



Solomon Furious Worlds (he/him) joined ACLU-PA as a staff attorney in the Philadelphia office in August. Previously, Solomon represented immigrant children in Michigan. As a Black, disabled Muslim who has protested and advocated in support of LQBTQ+ rights, Black liberation, disability justice, Palestinian liberation, sexual assault survivors, and prison abolition, he is eager to leverage his personal and professional experiences as he works with and for the people of Pennsylvania. Solomon graduated from the University of Michigan Law School and earned a bachelor's degree in saxophone performance and another in social psychology from the University of Iowa.



Claire Landau (she/her) joined ACLU-PA as deputy director this spring, after spending the last seven years working in organizational management as the chief of staff to Philadelphia's Board of Education. In the role, Claire led the transition of the board from state to local controlled governance, supported the district through COVID-19, and, most recently, directed the search for Philadelphia's new superintendent of schools. Prior to working for the school board, Claire was a teacher and founded two grassroots nonprofits to support Philadelphia educators. She holds a master's in school leadership from the University of Pennsylvania and a bachelor's degree in political science from Barnard College.



Jaya Montague (she/her) joined ACLU-PA in October as the digital communications strategist. Jaya has over three years of marketing and communications experience, with a background in digital marketing and social media management. Before working in communications, she was a journalist for over four years. Prior to the ACLU-PA, she worked on content creation and video production at the Independence Seaport Museum and at People's Emergency Center, developing marketing strategy and creating graphic design. She received her B.A. in journalism from Temple University and her certificate in digital marketing from Drexel University.



Kate Steiker-Ginzberg (she/her) is ACLU-PA's new Public Interest Legal Fellow, based in the Philadelphia office. Kate is a 2022 graduate of the Temple University Beasley School of Law. Prior to law school, Kate spent seven years working as an independent journalist and field producer for major media outlets and was based primarily in Rio de Janeiro, Brazil. Her decision to attend law school was inspired by her work on a documentary about the criminal legal system in New Orleans. While in law school, Kate was a frequent collaborator with Temple's Sheller Center for Social Justice, where she worked on litigation involving the Berks immigration detention center. She graduated from Columbia University in 2012 with a degree in urban studies.



Brandon Walsh (he/him) joined ACLU-PA last summer as the Campaign for Smart Justice policy intern. Brandon is in his final year at the Tom Kline School of Law at Duquesne University. Additionally, he works for the Pennsylvania Innocence Project through a university-sponsored externship. Prior to studying law, Brandon worked for over half a decade as a therapist working with individuals suffering from substance use disorders. He has a bachelor's degree in psychology from Penn State



Viktoria Zerda (she/her) joined ACLU-PA in September as the immigrants' rights legal fellow. A proud Mexicana from San Antonio, Texas, Viktoria attended Rutgers Law School - Camden. Her project with the ACLU-PA will focus on working to bring accountability to Immigration and Customs Enforcement and to help clients vindicate their rights. Her work will also complement the long term goal led by local community based organizations, who have recently convened a working group to end ICE detention in Pennsylvania.





P.O. Box 60173 Philadelphia, PA 19102



DIRECT ACTION GETS RESULTS



ACLU-PA joined state Rep. Rick Krajewski (above), Amistad Law Project, and other partners in September in protest of the PA House's select committee investigation of Philadelphia District Attorney Larry Krasner. Krasner has not been accused of a crime or other misconduct, but, in November, the state House Republicans voted to impeach him.



Robert Saleem Holbrook of Abolitionist Law Center talks with the crowd at an action at the state capitol in April in opposition to legislation to alter probation practices. ACLU-PA co-sponsored the event and opposes the bill. The proposed reforms will have little positive impact on probation policy and will likely extend the length of time that some people spend on probation. \blacksquare