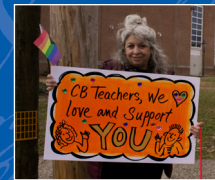


FREE FOR ALL



Defending a beloved teacher — page 3

FALL 2023

ACLU-PA PLAYS THE LONG GAME, FOR ALL PENNSYLVANIANS



By Claire Landau
Acting Executive Director

In May, the Pennsylvania House of Representatives did something historic. The House passed legislation to add sexual orientation and gender identity and expression to the commonwealth's nondiscrimination law, the Pennsylvania Human Relations Act.

This is the first time that the bill passed a chamber of the General Assembly. While work remains to get the bill through the state Senate and to the governor, this marked a significant milestone.

The passage of the Fairness Act underscores why your support of the ACLU of Pennsylvania is an investment in the long-term future of our commonwealth, benefitting all its residents, especially those most impacted by the issues we champion.

In 2016, ACLU-PA, along with several

advocacy groups, withdrew support for this legislation when Senate Republicans amended it to remove protections for transgender people in public accommodations. That was a tough decision for us, as some advocates were willing to support the compromised version. However, at ACLU-PA, we took a principled stance that we could not support legislation that would leave transgender Pennsylvanians vulnerable to discrimination in public businesses.

We don't take shortcuts. We don't take easy, quick wins if it means leaving people behind.

We have multiple tools at our disposal in these struggles. While we worked to keep the issue alive in the legislature, advocacy by the ACLU and other like-minded organizations led to two important legal changes. First, in 2020, the U.S. Supreme Court recognized sexual orientation and gender identity as part of the definition of sex in federal nondiscrimination

law. Then the Pennsylvania Human Relations Commission, which enforces the commonwealth's nondiscrimination law, implemented a regulation recognizing the same definition.

While we are still waiting to pass the bill, we have made real, tangible progress, through a multi-pronged strategy, providing LGBTQIA+ Pennsylvanians facing discrimination with ways to challenge the wrong that is done to them.

In legislative advocacy, we sometimes have to make difficult decisions about our positions when legislation is narrow and compromised. It's even more challenging when friendly lawmakers and advocates are willing to accept the compromise. But ACLU-PA is deeply committed to Pennsylvania's long-term future and prosperity. Our staff live here, many were born and raised here, and we will never compromise in a way that could harm our fellow Pennsylvanians for the sake of a shallow victory. ■

STATE HOUSE PASSES FAIRNESS ACT TO BAN DISCRIMINATION AGAINST LGBTQIA+ PENNSYLVANIANS

The Pennsylvania House of Representatives made history in May when it passed legislation to add sexual orientation and gender identity and expression to the commonwealth's nondiscrimination law. It was the first time that a chamber of the General Assembly had passed the bill.

ACLU-PA has advocated for this legislation for at least 20 years, and much has happened in that time. In 2020, the U.S. Supreme Court ruled that sex discrimination under federal law includes discrimination based on sexual orientation and gender identity, in two cases brought by the ACLU. During Governor Wolf's tenure, the Pennsylvania Human Relations Commission, the agency that enforces the law, implemented a regulation recognizing the same definition.

The commission's regulation offers



Naiymah Sanchez of ACLU-PA addresses the crowd at a lobby day in support of the Fairness Act in June.

LGBTQIA+ Pennsylvanians a way to challenge discrimination they face in the workplace, housing, and at

businesses open to the public. But the Fairness Act goes further by enshrining that protection into law. A future governor could roll back the commission's regulation but would have a much more difficult time repealing the language from statute.

As of this writing, the bill, House Bill 300, is in the state Senate for consideration. ACLU-PA is co-hosting a lobby day on the bill in Harrisburg on October 24. Email info@aclupa.org for more information about attending. Learn more about this bill and ACLU-PA's work at the state capitol by visiting aclupa.org/legislation. ■

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FROM THE PRESIDENT



Dear ACLU-PA supporter,

For more than 100 years, the ACLU has sought to defend and extend the basic rights that are essential to a free and equitable society. Because freedom and equality threaten the unjust power structure that grants control to an overprivileged minority, the ACLU has always had enemies and critics. One common refrain heard from our critics today is that the ACLU is “no longer true” to its principles, like in some imagined past era. This criticism is unfounded.

The board of directors of the ACLU-PA receives at each of our quarterly meetings a program report on the activities over the previous months of

our large, talented, diverse, and busy staff. On reviewing these reports, I am consistently impressed not only by the breadth and importance of our work, but also by its consistency with the longstanding principles of the ACLU.

In this issue of the newsletter, you will read about our defense of teacher Andrew Burgess. Mr. Burgess has been illegally retaliated against by the administration of the Central Bucks School District because he tried to protect all his students, including bullied and silenced LGBTQIA+ students.

I am reminded that the ACLU’s first big case, just a year or two after the organization was founded (by a coalition of young anti-war, anti-racist, pro-labor, immigrants’ rights, and women’s rights activists), was our

defense of a teacher. The client was John Scopes, the Tennessee biology teacher who was put on trial and fined for resisting the state’s command that he indoctrinate his students with religious dogma mislabeled as science. The ACLU’s next great cases, less than five years later, came to the defense of victims of racial violence and biased criminal courts, in both the North and the South.

Again, we continue that work today. While the ACLU is always looking to advance our belief in human freedom and equality in new ways, our adherence to basic principles remains steadfast and consistent.

Peter Goldberger
President, ACLU-PA

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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.

TEACHER AT CENTRAL BUCKS SUSPENDED FOR HELPING A TRANS STUDENT

When a transgender student at Lenape Middle School in the Central Bucks School District needed help with responding to being bullied by his classmates in the spring of 2022, he went to one of his teachers, Andrew Burgess, who was known for his willingness to help LGBTQIA+ students.

The student had first tried to report the behavior to the building administrators but didn't get good results; the harassment continued. So he turned to Andrew, who told the student about the complaint process at the Office for Civil Rights at the U.S. Department of Education. The student and his mother authorized Andrew to submit a complaint to the agency on the student's behalf.

Shortly afterwards, in May 2022, the district suspended Andrew from his teaching job and then transferred him to teach a different grade level at another school. After the ACLU of Pennsylvania filed its own complaint with the Office for Civil Rights in October 2022 alleging the district maintained a hostile environment for LGBTQIA+ students, the district opened its own investigation with district-hired lawyers. The resulting report, released in April 2023, ignored students' concerns, claimed all is well in the district, and cast Andrew (and the ACLU) as the villains. The district then suspended Andrew again, and that remains in effect.

The ACLU of Pennsylvania has filed a federal civil rights

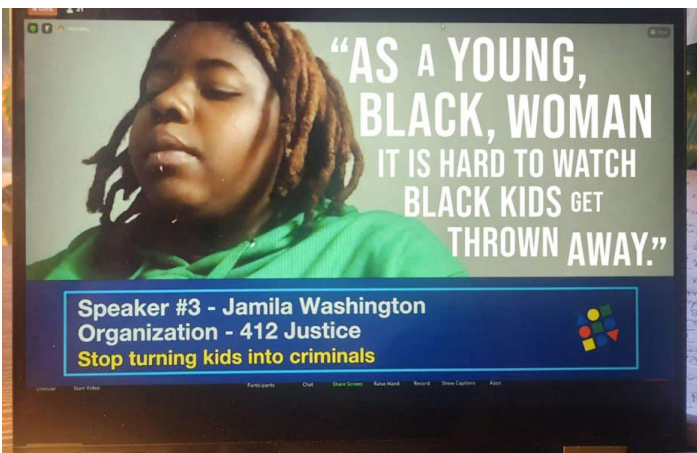


Students, parents, and teachers rallied in support of LGBTQIA+ students at Central Bucks in January.

lawsuit on Andrew's behalf against the district, alleging retaliation in violation of Title IX and the U.S. Constitution, and due process violations under the U.S. and Pennsylvania constitutions.

Learn more about Andrew's case at aclupa.org/Burgess and about our Title IX complaint against Central Bucks School District at aclupa.org/CentralBucks. ■

PITTSBURGH PUBLIC SCHOOLS TEMPORARILY HALT SUMMARY CITATIONS FOR STUDENTS



After years of advocacy by the ACLU of Pennsylvania and local partners, the board of Pittsburgh Public Schools voted in June to temporarily halt the issuance of summary citations by district staff to students.

Summary citations are tickets issued to students for minor infractions, such as disorderly conduct. While the student's behavior is minor, the impact can be significant. These citations order a young person or student to appear before a magisterial judge in adult court, not juvenile court, and a student is not provided an attorney.

The consequences can include fines, and a failure to pay fines can lead to more charges, with a devastating effect on families living in poverty. A child's record is also not automatically expunged. That record can impact their ability to get into college or the military or find a job after high school.

Pennsylvania law does not require law enforcement officers to issue these tickets. It is totally discretionary.

ACLU-PA's analysis of data from Pittsburgh Public Schools found that the district's use of summary citations had a disproportionate impact on Black students. 89% of tickets issued in the 2021-22 school year were given to Black students, in a district with a Black population of 53%. One of every 70 Black students in the district were given a summary citation, compared to one in 400 white students.

The district's board voted to suspend the use of summary citations until November, with a commitment to examining the practice and putting a new policy in place.

This win is one part of the statewide work of ACLU-PA and our allies to reduce the role of police in the lives of young people.

Learn more about ACLU-PA's work to end the school-to-prison pipeline by visiting endzerotolerance.org. ■

BUILDING STRENGTH, WITH YOUR HELP

The ACLU-PA is **building** a program for more robust volunteer involvement in the organization's work. And we need your help.

With a new field director hired and a new organizer on the horizon, the organization is actively recruiting a diverse, new generation of civil liberties defenders.

Please join us! There are many ways to get involved and make a difference.

This fall, our volunteers have been busy texting, calling, and canvassing voters for this November's election.

The Supreme Court of Pennsylvania issues decisions about voting rights, abortion rights and access, and criminal legal reform.

Our volunteers are out spreading the word about the importance of this election and encouraging Pennsylvania voters to vote their values. There's still time to get involved!

To get involved, please email volunteer@aclupa.org.

There will only be more to do in the future, with 2024 on the horizon. For more information, please go to aclupa.org/volunteer to sign up to become a civil liberties defender. ■



Senior Organizer Naiymah Sanchez (left) and Associate Director of Philanthropy Marissa Kolarosky (right) at ACLU-PA's Speaking Freely: The Struggle for Trans Right live podcast event in Pittsburgh in June. ■

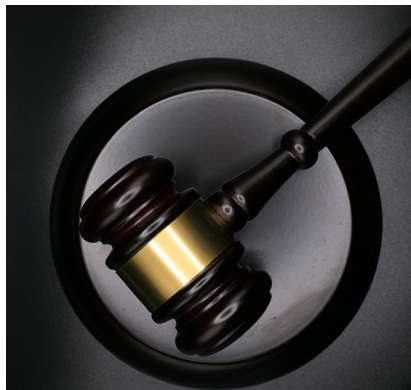
ELECTING THE NEXT JUSTICE TO THE PENNSYLVANIA SUPREME COURT

In the **spring issue** of this newsletter, you may have read about the importance of the Pennsylvania Supreme Court and its impact on civil liberties. Pennsylvania is one of a small number of states that elect judges and justices to appellate courts in partisan elections.

Pennsylvania voters get their next opportunity to elect a justice to the state Supreme Court in November. Democrat Daniel McCaffery and Republican Carolyn Carluccio are vying for the position.

The ACLU of Pennsylvania has been before the state Supreme Court dozens of times, perhaps most significantly before, during, and after the 2020 election. In the last three years, the court has heard numerous cases on the right to vote, including on the constitutionality of the vote-by-mail law, the legality of ballot drop boxes, and on counting ballots from voters who mistakenly forgot to handwrite a date on their return envelopes.

ACLU-PA and our partners joined many of these cases. While the court largely ruled in favor of the right to



vote over the last three years, some of these cases were decided by a single vote.

And since September 2022, the court has had six sitting justices. As a result, a case deciding whether or not to count mail ballots without a handwritten date or with the wrong date on the return envelope ended in a 3-3 deadlock, leading to the disqualification of ballots from voters who made that mistake.

A single justice can turn a case one way or another. That's why it is critically important to vote in this election.

The court's importance doesn't end at defending democracy. After the U.S. Supreme Court overturned *Roe v. Wade* in 2022, state constitutions and courts have become critical in protecting the right to abortion. Last year, the Pennsylvania Supreme Court was asked to recognize a right to abortion care in the state constitution, a case they have yet to decide.

The justices also consider important issues related to criminal law, openness in government, healthcare, and discrimination.

Get to know the candidates and make a plan to vote by November 7. If you want to go a step further, ACLU-PA is running a volunteer program to spotlight this race for more voters. Email volunteer@aclupa.org to learn more about how to get involved.

Learn more about the election at aclupa.org/PASupremeCourt. And know your rights when voting by visiting aclupa.org/vote. ■

WELCOME NEW STAFF TO THE ACLU OF PA

Since the last issue of Free For All, ACLU-PA has welcomed four new staffers to the team.



Ben Gillespie (he/him) joined the ACLU-PA in July 2023 as field director. Prior to joining the organization, Ben dedicated nearly two years to the New Pennsylvania Project, where he honed his skills in mobilizing communities and driving impactful change. Drawing inspiration from his degree in criminology and political science from the University of Nebraska-Omaha, Ben possesses a comprehensive understanding of the intersection between social justice and the legal system. Ben has a diverse range of interests outside of his professional endeavors, including Nebraska football, chess, strumming his guitar, and as of recently, playing pickleball.



Beyonce Hammond (she/her) is a legislative associate for the ACLU of Pennsylvania. Before joining ACLU-PA, she had the opportunity to work for multiple political organizations, including the Congressional Black Caucus Foundation and the Council of State Governments. Beyonce completed her bachelor's degree in political science with minors in pre-law and leadership at the University of Central Oklahoma. During that time, she completed an internship with the Oklahoma House of Representatives and held multiple research assistant positions around issues related to mass incarceration, voting, and women's rights. In her free time, Beyonce enjoys traveling, reading, and exploring the city for good eats.



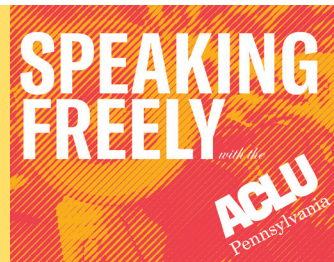
Emily Hoecker (she/they) joined the ACLU of Pennsylvania as a paralegal in August 2023. Before joining ACLU-PA, she spent three years working in criminal defense law as a paralegal and client advocate at Still She Rises in Tulsa, Oklahoma. Emily completed their bachelor's degree in social policy at Northwestern University, and, during that time, they completed an internship with the San Francisco Public Defender's Office and held multiple research assistant positions around issues related to mass incarceration, LGBTQIA+ communities, and maternal health.



Veronica Miller (she/her) joined the ACLU-PA in July 2023 as senior policy counsel for criminal legal reform. She has over 10 years of experience as a practicing attorney. She began her legal career as an assistant public defender in Dauphin County, and, after a brief time in private practice, she joined the Administrative Office of Pennsylvania Courts as legal counsel. In the four-plus years before coming to the ACLU-PA, Veronica served as the Democratic deputy chief counsel to the Pennsylvania Senate Appropriations Committee. Veronica received her law degree from the Penn State Dickinson School of Law in 2012 and received her undergraduate degree in philosophy from the New Mexico State University in 2007. Veronica spends much of her free time chasing after her two young boys and enjoys playing and watching sports, snowboarding, listening to music, and traveling to new places.

LISTEN FREELY TO ACLU-PA'S PODCAST

Speaking Freely With the ACLU-PA is the podcast where you hear conversations about the most pressing civil liberties issues in the commonwealth. Find Speaking Freely With the ACLU-PA on your favorite podcast app or at aclupa.org/speakingfreely. ■



DONOR PROFILE: CAROLE LANDIS



Carole Landis, LCSW, is the chairwoman and founder of the Carole Landis Foundation For Social Action. Founded in May 2015, the foundation supports nonprofits that fight racism, prejudice, antisemitism, and gender and LGBTQ+ hatred; help exploited victims of sex trafficking and intimate partner violence; and support food insecurity programs.

Why did you start the Carole Landis Foundation?

Hate is visceral. And that's what I felt after exiting the Charles de Gaulle Airport that January, 2015, on the heels of Paris' first major domestic terrorist attack that shook Parisians to the core. Over three days, terrorists took the lives of shoppers at the Jewish Hyper Cacher market, journalists of the Charlie Hebdo publication, police officers, and bystanders.

Mingling with the street smells of chocolate croissants, the signs of antisemitism were abundant with "JUIF" (Jew) spray painted in red on walls, buildings, and cars.

Jewish Federation of North America summoned 45 delegates to bear witness, observe, and support the French Jews.

Our mission met with some of the surviving hostages of the Hyper Cacher market attack, rabbis, congregants, the Israeli ambassador to France, and the French minister of defense.

We were protected by armed security at all times.

How do you unpack this profound experience? You start a nonprofit foundation.

There's a page on your website that says, "Why we care." Why do you care?

As a clinical social worker, I have spent most of my career advocating for underserved populations. When you truly care about people in your community, apathy is no longer an option. Empathy creates action. When shown empathy, compassion, and given the tools for empowerment, people can learn to develop resilience and feel strong and worthy.

I care about leaving behind a legacy. Through storytelling and philanthropy, others may be inspired to do the same.

Why did you recently decide to designate the ACLU as a beneficiary of both your personal retirement accounts and the foundation?

I believe in your work. You stand up for vulnerable people whose civil and human rights have been violated by those in positions more powerful than theirs. ACLU's advocacy has always been through legal, appropriate, non-combative means.

There is commonality in both of our missions.

Learn more at www.carolelandisfoundation.org ■

PARDON ME AT WORLD CAFE LIVE



In September, ACLU-PA and Philadelphia Lawyers for Social Equity hosted a screening for the short documentary film, Pardon Me. The event, also co-sponsored by the law firms Ballard Spahr, Morgan Lewis, and Faegre Drinker, included a Q&A panel for audience members.

Panelists included (left to right) Adrienne Ghorashi, moderator and ACLU-PA board member; Staff Attorney Solomon Furious Worlds; Pardon Me Director/Producer and ACLU-PA board member Shuja Moore; and Evan Figueroa-Vargas.

Learn more at pardonsnow.org ■

UNWINDING PUNISHMENT FOR DEBTS

In 2016, the ACLU of Pennsylvania undertook an ambitious project to tackle the deep-seeded problem of counties punishing people for outstanding debts. Throughout Pennsylvania, people who cannot afford hefty criminal court fines and costs face sanctions, including detention and even more costs.

There is no quick fix for this problem, but we continue to make good progress. In August, the state Superior Court ruled in an Allegheny County case that counties cannot extend a person's probation for failure to pay restitution without first considering their ability to pay. ACLU-PA filed a friend-of-the-court brief and advised lawyers challenging the probation extension.

Another ACLU-PA case challenges Montgomery County's practice of charging people costs for every separate offense, rather than per case. For instance, if a person is convicted of two charges, the county charges them twice for court costs. No other county handles costs this way, and we are arguing that it is illegal. Since court costs are regularly over \$1,000 even before duplication, this has a significant impact on people living in poverty.

In 2021, ACLU-PA sued Montgomery County on behalf of five individuals. The court recently certified the case as a class-action lawsuit, which would extend relief to more than 13,000 victims of this double-billing practice.

We are also working in arenas beyond just the courts. Last year, then-Governor Wolf signed a bill passed by the General Assembly to help people who cannot pay their court costs. Act 163 of 2022 guarantees due process protections by requiring a hearing on the person's ability to pay before their costs and fees are referred to a collection agency. It also authorized courts to waive or reduce fines and costs for indigent defendants. By giving judges more latitude on sentencing and allowing defendants more options, the law helps counties focus on realistically-collectible debt and expanding courts' power to forgive unaffordable debt for indigent individuals.

The ACLU-PA team recognized from the outset that this work would take years of litigation and advocacy. Much work remains, but we are already seeing that investment pay off. To learn more, visit aclupa.org/finesandcosts. ■

STATE LEGISLATURE CONTINUES TO EXPAND PA CRIMINAL LAW



In April, ACLU-PA released the third iteration of the report More Law, Less Justice. After every two-year session of the Pennsylvania General Assembly, the legislative team at the ACLU of Pennsylvania analyzes how many bills were introduced, considered, and enacted that create new crimes,

enhance existing penalties, and/or expand current laws that result in more people going to prison or jail. ACLU-PA calls it “the statehouse-to-prison pipeline.”

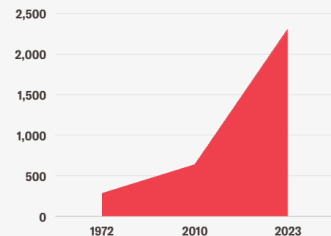
Unfortunately, lawmakers never fail to disappoint. In the 2021-22 legislative session, a total of 308 statehouse-to-prison pipeline bills were introduced. Of the 308 pipeline bills introduced, 63 received consideration. In other words, 20% of all pipeline bills were considered this session.

Of those 308 bills, a total of 18 pipeline bills were enacted. And they all passed with bipartisan support.

Over just the last three sessions, legislators escalated

PA CRIMINAL OFFENSES 1972-2023

256%
increase



ACLU Pennsylvania

aclupa.org/MLLJ2021-2022

their relentless expansion of Pennsylvania's criminal law, adding a total of 10 new sentencing enhancements, 28 expanded offense definitions, 52 new offenses or suboffenses, and 106 new criminal penalties to our state statutes.

Ending Pennsylvania's public policy of mass incarceration begins with the state legislature. Legislators must stop the continuous pipeline of unnecessary and duplicative bills that continue to put more and more people behind bars.

To read the report, visit aclupa.org/MLLJ2021-22. To see how your state legislators voted on these and other bills, visit aclupa.org/legislativescorecard. ■

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ETERNAL VIGILANCE FOR JUSTICE, FREEDOM, AND LIBERTY



When Moms For Liberty held its annual conference in Philadelphia, ACLU-PA and our partners showed up in support of inclusive education for all. ■



Rikeyah Lindsay speaks at the 100 Moms Coalition of Philadelphia action at City Hall in late April to protest the proposal of some electoral candidates to expand the use of stop-and-frisk by police. During the Philly mayoral primary campaign, numerous organizations, including ACLU-PA, raised the profile of the issue in an effort to deter candidates from embracing the problematic, racist policing tactic. ■



ACLU-PA staff and volunteers took in a special preview of a new exhibit on the First Amendment at the National Constitution Center in September. Those in attendance included (left to right) Senior Organizer Naiymah Sanchez; volunteers Anna Durbin and Peter Goldberger, president of the ACLU-PA board of directors; Acting Executive Director Claire Landau; Director of Philanthropy Sarah Johnson; and Staff Attorney Solomon Furious Worlds. ■